Nova Scotia

POLICE COMMISSION

REPORT OF THE INQUIRY INTO THE KENTVILLE POLICE DEPARTMENT

ERRATA

TABLE OF CONTENTS PAGE

Between "Racial Prejudice" and "Loitering Problems" insert

Recommendations on Racial Prejudice 110

Between "Accommodations for the Police Department" and
"Workload and Manpower Requirements" insert

Recommendations on Accommodations for the Police Department...158

Between "Police Act" and "Scope of This Inquiry" insert

Recommendations on the Police Act 167

REPORT OF THE
INQUIRY INTO THE
KENTVILLE POLICE DEPARTMENT

BEFORE

Vice Admiral H. A. Porter (Ret'd.) Chairman	**Nova Scotia**
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Murray J. Ritch Member	**Commission**

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TABLE OF CONTENTS

	PAGE
Introduction	1
Background	7
The Report	12
Miss Susan Ogilvie Incident	12
Gerald Kynock Incident	18
Murray Copage Incident	23
David Ettinger Incident	28
Fraser Hebb, Jr. Incident	32
Anthony Clements & Douglas States Incidents	34
Michael Keddy, David Eisnor and Wayne MacDonald Incidents	38
Derrick Chisholm Incident	42
Christopher Munro Incident	44
John O'Brien Incident	45
Mark Spencer Leefe Incident	47
David Shaw Incident	49
Arthur and Timothy Purchase Incident	49
The Viner Testimony	55
Stephen S. Wagner Incident	56
David Schofield Incident	60
Dean F. O'Neill Incident	62
Wayne Vaughan Incident	63
James Bent Incident	65
Bishop Incident	66
Arenburg Incident	67
Probationary Constable Kenneth A. Turner	69
Probationary Constable John T. Kennedy	74
Drug Investigation Incident	79
Supplement to the Drug Investigation Incident	87
Allegation of Indecent Assault	90
Allegation of Obscene Telephone Calls	92
Mace	95
Strip Searches	99

TABLE OF CONTENTS - continued

PAGE

CPIC Printouts and Crime Index 103
Racial Prejudice 109
Loitering Problems 111
Complaints Against Police 113
Traffic Authority 119
Support for the Kentville Police Department 120
The Town of Kentville and Its Police Department 122
    The Mayor 123
    The Board of Police Commissioners 126
    The Chief of Police 130
    Other Members of the Force 140
        Sgt. Fred Young 140
        Cst. David Murphy 146
        Cst. Bryan Morrison 148
        Cst. Augustus MacIntyre 150
        Cst. Calvin B. Thomas 152
    Kentville Police Association 153
    Town Administration 155
Accommodations for the Police Department 158
Workload and Manpower Requirements 159
Police Training and Education 163
The Police Act 166
Scope of This Inquiry 168
Conclusions and Recommendations 171
    Office of the Mayor and Town Council 171
    The Board of Police Commissioners 172
    The Chief of Police 173
    Sgt. Fred Young 175
    Cst. David J. Murphy 176
    Cst. Bryan K. Morrison 176

EXHIBITS

Appendix A 179

INTRODUCTION

On February 9,1984, the Nova Scotia Police Commission concluded the hearing of witnesses at an inquiry, pursuant to Section 9 of the Police Act, into the Kentville Police Department and various allegations respecting the conduct and performance of duty of its members. The Chairman announced that Counsel would be given until March 1, 1984, to submit briefs respecting the inquiry, that the briefs would be sent out to all Counsel and that Counsel would have until March 23, 1984, to submit rebuttals. The Chairman also announced that a written report would be made when the Commission had made its decision.

The Inquiry began on July 25, 1983, and concluded after 21 days and a total of 150 hours of hearing of evidence. There was a total of 184 appearance of witnesses before the Commission, 125 exhibits were filed, and 5108 pages of evidence recorded.

At the outset, the Commission wishes to make a number of statements concerning the police, policing and local police governing authorities; including responsibility, accountability and contemporary police practices and procedures. The Commission considers that such comments are a necessary background to the findings, conclusions and recommendations which will be made later in this report.

Over the last 40 years there have been many changes in public attitudes toward police officers, police forces and policing in general. In Nova Scotia, and across Canada, the relationship between the police and the public is such that the police cannot successfully perform the tasks of preventing crime and maintaining law and order without the support and the confidence of the public. This is a fundamental principle and one which all police officers and all citizens must recognize.

Law and Order are the cornerstones of a responsible society. Where one fails, both fail. Respect for the law and protection of the citizen under the law is a commitment that society makes. Article 7 of the Charter of Rights and

Freedoms puts it this way, "Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice".

Articles 8, 9, 10 and 12 are also of great importance and state:

"8. Everyone has the right to be secure against unreasonable search or seizure."

"9. Everyone has the right not to be arbitrarily detained or imprisoned."

"10. Everyone has the right on arrest or detention

(a) to be informed of the reason therefor;

(b) to retain and instruct counsel without delay and to be informed of that right; and

(c) to have the validity of the detention determined by way of habeas corpus and to be released of the detention if not lawful."

"12. Everyone has the right not to be subjected to any cruel or unusual treatment or punishment."

The police officer is entrusted by the law with more powers than the public but the police officer is not the law; neither is any police officer above or beyond the law.

It needs to be stated and emphasized that police officers, irrespective of rank, location or assigned police duty, are servants of both the public and the law. They do not make the law, they serve it. While police are empowered with great and wide discretion they must at all times function within the law.

No police officer has the right to impose sanctions or impart punishment on any other person. Such sanctions can only be imposed by the courts and we need to be eternally vigilant to ensure that such a system continues to function.

Among the major contemporary institutions in our society, none can surpass the police both in need and acceptance. The public has never been more aware and watchful of the total police role. People are showing more interest in their police forces. They want to know how they are being trained, administered, supervised, and disciplined. They become understandably concerned if they perceive that high standards in those areas are not being met.

A century and a half ago Sir Robert Peel had a number of principles issued to all members of the newly-formed London Metropolitan Police Force. The most important admonition related to the control of the policeman's temper.

> "He (the police officer) must remember," wrote Peel, "that there is no qualification so indispensable as the perfect command of his temper. He must never allow himself to be moved in the slightest degree by any language or threats that may be used. He must also be cautious not to interfere idly or unnecessarily with the public in order to make a display of his authority and when required to act, he will do so with decision, boldness and impartiality."

Police, police forces, police methods and procedures have changed a lot since Peel wrote these words. But the sentiments are as essential today as they were then.

Ever since the first organized police body was founded in Great Britain over 150 years ago, the protection of the people, the prevention of crime and its detection when committed, have been the prime functions of police. The police officer is truly the guardian of the peace; and his superiors have the additional responsibility of ensuring that he or she performs his or her police duty in a manner that is lawful and impartial at all times and in every situation.

The executive head of each municipal police force in Nova Scotia is the Chief of Police. He is accountable under the Act to the Board of Police Commissioners, the police governing authority. The governing authority has both the duty and responsibility to ensure that the chief of police, as executive head of the force, is meeting his responsibilities, in particular, that of governing all subordinate members of the police force. The chief of police is directly accountable to the authority for the administration and all operational functions of the force. He may have one or more subordinates appointed to assist him in such duties. But the ultimate responsibility for the control of the force at all times rests with the chief of police and no one else.

The police governing authority for the Town of Kentville is the Board of Police Commissioners. In this Commission's view, local Boards of Police Commissioners have three main responsibilities:

(a) To provide an adequate police force for the municipality, properly paid, trained, equipped, housed, and administered.

(b) To provide clear policy direction to the force in the form of rules and regulations supplemented by additions and/or amendments from time to time as required.

(c) To play an active role in fostering good relations between the police and the public.

To expand further upon the role of the Board of Police Commissioners the following is an excerpt from the August 1982 paper "Guidelines for Police Governing Authorities" sent to all Boards by the Commission:

"In general, the role of the board is to set policy for the operations of a police force and to ensure efficient management of the department.

The day-to-day operations of the police department must remain with the chief of police. This principle should be clearly enunciated in any by-laws under Section 20(1) of the Act. No member of the board, as an individual, is permitted to issue a direction to the chief of police or other member of a police department. The direction must come from the board as a body.

In the creation of boards of police commissioners there is an expectation that they will act as a responsive monitor of police activities and as an initiator of policies which reflect community needs. It is also envisaged that a board of police commissioners should increase the communications of community needs and political priorities to police *leadership.*

The governing authority is responsible for the governance of the force and should supply directions through rules and regulations passed by by-law. These set out the responsibilities of the chief and other members of the force and as such remove confusion as to the will of the governing authority. In turn, the chief should issue standing orders, a semi-permanent set of rules governing the force entrusted to him. In addition to the above, of course, the governing authority must make ad hoc decisions and communicate them to the chief in respect to special situations and the chief must do likewise on a day-to-day basis by issuing routine written orders or by oral directions.

It is important that the chief should not burden the governing authority with decisions lying within his responsibility such as the discipline of the force which is normally within his province. On the other hand, it is the duty of the chief of police to report regularly to the governing authority as to the state of discipline in the force, the number of and highlights of occurrences handled by the force, the state of training, and other matters which enable the governing authority to make informed decisions on the state of police services in their jurisdiction.

If in doubt as to his authority, the chief of police should consult the governing authority. On the other hand, individual members of the governing authority, unless clearly authorized to do so, should not interfere in the daily operations of the force. However, all lawful orders of the governing authority must be scrupulously obeyed.

All of the above considerations are relevant to the management and control of the police force. The considerations are different, however, in any discussion of the role of the police in law enforcement. The chief of police and other members of the force are sworn servants of the Crown and the superior courts have held on numerous occasions that in enforcing the law, a Master-Servant relationship between the governing authority and the chief of police and other officers of the force does not exist in this context. The chief of police and his officers are sworn to uphold and enforce the law; if they fail in this duty, they are answerable to the law. Redress may be sought through the courts for such failure.

It therefore follows that the governing authority of a police force must refrain from ordering the chief of police not to proceed with a criminal or quasi-criminal charge or not to enforce a particular statute. There is, however, no reason why the governing authority should not offer advice to the chief of police as to what the governing authority perceives to be enforcement priorities in their particular community. This should produce the kind of enforcement policies earlier referred to as the blend of political and executive philosphy which reflects community needs."

Before proceeding with this Commission's report on the state of affairs in the Kentville Police Department, we would like to make reference to the printed foreword in the 1976 Police Officers Manual published by the Carswell Company Limited, Toronto. The manual has much to say about police and policing. While the following extracts do not specify everything that a police officer should be, they constitute the basic tenets of sound policing.

"A few general observations are offered for the guidance of the police officer with ambition to succeed:

-He must realize that he is essentially a peace officer, and as such must see to it that the Queen's peace is not broken. His first duty is the prevention of crime.

-In his contact with the public he should be civil, firm when occasion demands, but never officious. The over-zealous or meddlesome officer is a nuisance, not only to the public but to his superiors.

-He should not interfere upon a slight pretext but only when he is reasonably certain that there is cause for police action.

-Patience and courtesy should be shown even when sorely tried by well-meaning persons with gratuitous advice; with stories of domestic difficulties; and by eccentric persons with fancied grievances.

-In the discharge of his duties as a police officer he should judiciously regard the rights of others.

-A man has the right to the safety and freedom of his person. Any interference with that right by way of assault, battery or imprisonment, if not justified or authorized is a wrong.

-An attempt or offer to do harm to the person of another which might have succeeded if persisted in or a verbal or gestured threat coupled with present ability to carry it out will amount to an assault.

-The provisions of most search warrants do not authorize search through the clothing worn by a man found in the house being searched, and such a search will be conducted at the officer's peril.

-Any complete restraint, no matter how short, upon the liberty of a person, will, in the absence of lawful justification, amount to false imprisonment, whether such restraint be physical or by exercise of authority.

-Keeping a man locked up in a room, or holding him for questioning, unless he willingly submits, are included.

-An officer must, before trespassing upon the person of another, be sure that he is justified in so doing, either by way of defence of himself or of property which he is entitled to protect, or that he has judicial authority for his action.

-No police officer should attempt to force his way into premises against the will of the owner unless he has a search warrant.

-A man may retain possession of his goods, unless the officer is entitled to seize them under a search warrant that clearly extends to those goods.

-Every police officer should remember at all times that he is the guardian of the honour of the force which he represents and that any laxity or merited criticism reflects directly

upon the force as well as upon himself."

BACKGROUND

The Nova Scotia Police Commission conducted lengthy public hearings into matters relating to the Kentville Police Department in the latter part of 1983 and early 1984.

In view of the seriousness of some of the allegations, it is thought necessary to give some background to the preparations for the public hearings.

As will be seen from the correspondence in Appendix 'A' to this report, the public inquiry was requested by the Board of Police Commissioners of the Town of Kentville.

Initially, the inquiry was to deal with the work and conduct of Sergeant Young. After a preliminary investigation by a member of the staff of the Commission and a meeting with the Board, the Board ultimately agreed that the inquiry would be constituted under subsection 9(2) of the Police Act which states:

> "The Commission or any member thereof designated by the chairman may investigate, inquire into and report upon
>
> (a) the conduct of or the performance of duties by any chief of police, other police officer, constable, special constable or municipal by-law enforcement officer;
>
> (b) the administration of any police force; or
>
> (c) the system of policing any municipality; or
>
> (d) the police needs of any municipality whenever

(ii) requested by a majority of the members of a board respecting such matters as are under the jurisdiction of the municipality."

It is the policy of the Commission to have members of its staff, prior to the commencement of an inquiry, investigate all relevant allegations. This includes:

-The conduct and/or performance of duties of the members of the Force.

-The operation and administration of the Force.

-The Rules, Regulations and Daily Orders.

-The interviewing of all persons whether members of the Force or not to determine what evidence or relevant material is available.

-To arrange to issue necessary subpoenas.

-To place all this material before Counsel for the Commission for his use in adducing evidence.

As this work proceeded, it became evident that the scope of the inquiry would be far beyond that which was originally envisaged. The Commission and its staff became aware that the citizens of Kentville wished to have a thorough airing of the troubles that they perceived were plaguing the Kentville Police Department. In the last paragraph of the lead editorial in "The Advertiser" of July 13, 1983, it was summed up as follows:

> "Public hearings of this kind are a unique opportunity for people to see and hear, for themselves, exactly what has gone on in the Kentville Police Department. Up to this point, the provincial police commission has done a meticulous job of establishing the groundwork for the hearings. Once they start on July 25, the public has every reason to believe the commission will continue its thorough and impartial search for justice."

When the members of the Commission's staff began to interview members of the Kentville Police Department with respect to some of the allegations being made against them, a number of the Kentville police officers, on the instructions of Mr. Joe Ross, Executive Director of the Police Association of Nova Scotia, refused to discuss these matters. This impeded the investigations, gave a very lopsided impression of the complaints made against police officers, and resulted ultimately in the temporary suspension of two police officers. The Commission found the decision not to talk with the investigators extremely disquieting in view of Section 66 of the Regulations made under the Police Act which reads:

> "To enable the Commission to carry out its duties under the Act, the members of the municipal police forces shall give their assistance and co-operation to the Commission, its members and staff."

The Police Act in subsection 9(4) states:

> "Every person likely to be affected by a investigation or inquiry under this Section shall be afforded a reasonable opportunity to appear and be heard either in person or through counsel."

This is, of course, a right of fundamental justice and the Commission is meticulous in ensuring that all parties are aware of this right.

A total of eight Counsel took part in the inquiry, most of whom were there for every sitting.

The Commission wishes to commend Counsel for their assistance and conduct during the inquiry. Where there are a number of Counsel in attendance there is an obvious tendency for examination and cross-examination to overlap and be repetitive. Counsel, however, exercised admirable restraint in not prolonging the inquiry by repetitive effort or by leading irrelevant testimony.

One of the disadvantages of having so many Counsel, most of whom have very busy practices, is the difficulty of setting dates of hearings which are amenable to all. The only reason that it took from July 25, 1983, to February 9, 1984, to complete the hearing of evidence was the difficulty in setting dates for the public hearings. On the dates when hearings were held, the Commission's practice was to have a morning, afternoon and evening hearing. The longest hearing day began at 9:00 a.m. and ended at 10:34 p.m.

During the course of the public hearings a few individuals appeared on television and gave radio interviews, commenting on the evidence being given and on the conduct of the inquiry. Some of the comments made bordered on contempt. However, the Commission chose to ignore the remarks made since its only concern was with direct evidence given under oath. The Commission wishes to comment that, while an inquiry is in progress and the report on the inquiry is being drafted, statements to the media, by persons involved, serve no useful purpose.

The Kentville Police Department was founded in 1887. As was the custom in those days, the Mayor, sometimes referred to as the Chief Magistrate, headed the Committee of Council which provided guidance to the police force. In fact, the Mayor often became involved in the operations of the department.

This practice continued, at least until 1976, when the Police Act was proclaimed. In 1977, a Board of Police Commissioners for the Town of Kentville was formed as is required by the Police Act and became the police governing authority for the Kentville Police Department.

The formation of Boards of Police Commissioners was a radical departure from the previous style of management that most municipalities had for governing their police departments.

Boards across the Province have had difficulty in understanding their duties and responsibilities. Meetings were held with members of Boards in Halifax and regionally around the Province. As mentioned previously, a paper entitled "Guidelines for Police Governing Authorities" was sent to all Boards in August 1982 to assist members of Boards in understanding their duties and their relationship with the police force.

At the request of Town Council, in early 1977, the Nova Scotia Police Commission carried out an assessment of the Kentville Police Department and submitted a report to Council in March 1977. That report made recommendations for a change in management style which should be assumed by the, then, newly-constituted Board of Police Commissioners. This inquiry has enabled the Commission to review the management style of the Board. This will be the subject of a section of the report.

The present Chief of Police, Mr. Allan McRae took over the duties of the position on August 1, 1978. Further background material on the tenure of Chief of Police McRae and other members of the Force will appear later in the report but need not be detailed at this time.

THE REPORT

The report which follows will deal with a number of matters in the sequence: incidents of complaints against the police presented to the Commission, the dismissals of Probationary Csts. Turner and Kennedy, the drug investigation incident, the Chief's investigations of allegations of indecent assault and obscene telephone calls, a number of other matters which arose from evidence presented before the Inquiry, the Town of Kentville and its Police Department, the manpower requirements of the Department, some other matters relevant to this Inquiry and, finally, conclusions and recommendations.

Miss Susan Ogilvie Incident

Susan Ogilivie testified that on the evening of December 8, 1981, after midnight, she left the Big Apple Tavern with Mr. McBride, in his red Honda, who drove over to the back Cornwallis Inn parking lot where her white Volkswagen was parked, to get some beer out of her car.

The police car followed them into the parking lot with "the red light" on.

She stated that she got out and went to her car and "they were talking to Tony" (McBride). The police came and told her that "they were going to take him (McBride) over to the station and put him on the breathalyzer and that I was to wait there and they would be back with him." This was between 12:00 and 12:30 a.m.

She says, "I waited in the car as I was told to do and passed out meanwhile." She admitted that she had been "drinking a substantial amount that evening".

She states that she was awakened around 2:00 or 2:30 in the morning by the police and recalls being asked to get out of Mr. McBride's car so that they could lock it.

She remembers Cst. Murphy, but not the other officer, Cst. Reade, "because he wasn't really talking to me".

Miss Ogilvie stated that her "car was sitting right there" and they were going to lock Tony's car and "they told me Tony had gone home and so they knew that it was my car so they just said: Well, you might as well get in your car and go home. Sounded like a good idea to me too."

She said that it was Cst. Murphy who told her to "get in the car and go home". Cst. Murphy denies telling Miss Ogilvie to do that.

Miss Ogilvie testified that she tried to wake up enough to drive home. It was cold and the windshield was fogged up. She then proceeded to drive around the block and out to New Minas. She says the police followed her, put the red light on by the Research Station and stopped her at Irving's, up on the hill. When she stopped she said she was upset and asked the police officers, "why?". It was explained to her that she was driving all over the road and that they were taking her back to put her on the breathalyzer. Miss Ogilvie said that she was upset that they had "basically" put her in the car and then stopped her and put her on the breathalyzer. She told Cst. Murphy that it "was really rotten" to put her on the breathalyzer and asked, "why put me in my car, then follow me around Town and then stop me". After the breathalyzer test the police drove her to her friend's place, Mr. Viner. She was later charged and convicted of operating a motor vehicle while her blood-alcohol content was in excess of .08 Mg.% and fined $300. She pleaded guilty after first pleading not guilty.

Under cross examination Miss Ogilvie was asked why she drove the car. She replied, "What else was I supposed to do at that hour of the morning". She added, "they're more or less telling me to get in my car. They're telling me that I can't stay there so what am I supposed to do and I got a car there and they are police officers .....".

Both policemen acknowledged that they did not offer to give her assistance; because she lived in Aylesford they could not go out of town.

The Commission finds it difficult to understand why the officers drove her to a friend's residence after the breathalyzer test yet did not offer to do this at the parking lot.

When asked whether either officer told her to get into the car, Miss Ogilvie replied: "They told me to go home."

Cst. Murphy testified that he never noticed Miss Ogilvie's condition of sobriety although he smelled liquor, awakened Miss Ogilvie twice in 15 minutes on a cold December night, and then parked in a driveway for 10-15 minutes to see if she would get in and drive her car.

Under cross-examination Miss Ogilvie stated, "If they're going to wake me up its obvious that I would have been drinking". She recalls being awakened once. The evidence of the police indicates that she was awakened twice. She further stated that the police helped her out of the car when she woke up.

The testimony of Cst. Murphy was particularly significant in view of the serious allegations concerning his handling of Miss Ogilvie, and his colleague's concern that there was "entrapment".

He stated that after she was awakened the second time, "she got out of the vehicle. I think we talked. I just can't recall what the conversation was. She walked toward her car. Cst. Reade and myself got in the police van. We were pulling away to the end of the parking lot and I noticed her get in the passenger's side of her vehicle and as we were driving down Webster Street I said to Kennie Reade, 'I wonder if she's going to drive that car', so we pulled over into a driveway and we watched to see if she was going to drive the car. She, and eventually the car did come out together 10 or 15 minutes later." Csts. Murphy and Reade then followed her. "She appeared to be having trouble operating the vehicle, she was driving all over the road, stopped her and Cst. Reade gave her the breathalyzer demand."

When asked if Miss Ogilvie said anything to him when she was stopped prior to being given the breathalyzer demand, Cst. Murphy replied: "I just can't recall all the exact conversation. You know I'd say she was a little upset, a little swearing at us."

This appears to confirm Miss Ogilvie's testimony that she protested being stopped. Cst. Murphy was asked if he offered her any assistance at any time. He replied, "Not that I can recall". Cst. Murphy said that Cst. Reade never spoke to him concerning his feelings in the matter.

Under cross-examination by Counsel, Cst. Murphy referred to a breathalyzer course he took in 1974 and they were told to put up roadblocks on taverns, but this was before the new Charter. The question here is not whether she was picked up by a roadblock coming out of a tavern but whether, under the circumstances, the police used good judgment having regard to her condition and her circumstances at that hour of the night. The fact that Cst. Reade felt there was "entrapment" in itself draws attention to the whole matter.

Cst. Murphy was asked, "When you went back the second time what was Miss Ogilvie's condition of sobriety?" He replied, "I never really noticed at the time. We just told her to get up and I could smell liquor but I didn't know if it was from other people in the car or whatever. We just told her she had to go .... I had no reason to assess her ability if she had been impaired at that time."

Cst. Murphy stated that he noticed Miss Ogilvie "walk toward her car", and then he waited 10 or 15 minutes parked in a driveway to see if she was going to drive the car. Why would he wait 10 or 15 minutes if he had no reason to believe she was impaired?

Even if the Constables did not put Miss Ogilvie in her car it is clear that if she was to go home or anywhere else at that hour of the night she would probably drive her car.

Cst. Reade testified, "as we were pulling out of the parking lot Cst. Murphy noted that Miss Ogilvie was getting into the white vehicle next to McBride's. He said something to the effect that she's getting into the car .... we sat there for approximately between 5 and 10 minutes..." Cst. Reade also stated, "We knew that Miss Ogilvie had been drinking from our prior encounter and I asked her to get out of the vehicle and come back to the police van with myself."

Cst. Reade quoted Cst. Murphy as saying, "I'm going to get her" as she drove by. Cst. Cooper also testified that Cst. Reade told him that that is what Cst. Murphy had said.

Cst. Reade explained, "I didn't feel right about the charge due to the fact that we went and sat and waited for her to move." He also was disturbed by the prospects of giving evidence if Miss Ogilvie went on trial. Cst. Reade testified that he still feels badly about the Ogilvie matter adding that he felt that this was entrapment.

Miss Ogilvie telephoned the Crown Prosecutor, Jack Buntain, and asked him if the police could prosecute her on the breathalyzer if she was "set up". Mr. Buntain replied, "technically perhaps they could". He then discussed the matter with Cst. Murphy and was assured by him that what Miss Ogilvie had told Mr. Buntain was not true. Mr. Buntain can't recall Cst. Reade speaking to him about this case but admits that he may have. Mr. Buntain indicated that if the matter went to court one of the Assistant Prosecutors would handle the case.

Cst. Cooper gave evidence confirming that Cst. Reade was really upset when he told him, "Boy, I'm in a pickle ... we got an impaired driver and it was a prime scene of entrapment". Cst. Cooper testified that Cst. Reade said that they woke her up and put her in another vehicle which was her own. Cst. Cooper quoted Cst. Reade as saying, "can't go on the stand and perjure myself if that kid pleads not guilty".

Cst. Cooper was asked, "From what you've heard of the evidence would you consider this matter that you heard in the nature of entrapment?" He replied, "Oh yes". He added that, "The girl should have been locked up for 85 of the Liquor Control Act when they came upon the vehicle".

Sgt. Young also gave evidence that Cst. Reade "was very upset about a case which he related to me as being an entrapment", and that he didn't want to give evidence against Miss Ogilvie on the breathalyzer case. Mr. Frank Nichols testified that he recalled speaking with Cst. Reade in relation to the Susan Ogilvie incident. Cst. Reade told him, "I'm not that kind of person". The gist of Cst. Reade's comment to Mr. Nichols was that he didn't believe in doing things that way. If Cst. Reade was so upset over this incident, it is difficult to understand why he signed the information charging Miss Ogilvie.

The Commission finds that:

(a) Cst. Murphy was misleading the Commission when he stated that he had no reason to believe that Miss Ogilvie was intoxicated when he found her asleep behind the steering column of the vehicle in which she was seated.

(b) Csts. Murphy and Reade had reason to realize that after being left there at an early hour of the morning Miss Ogilvie might drive her car on a public highway at considerable risk to herself and to the public. Their judgment in handling this matter was unprofessional.

(c) While police officers are expected to be supportive of one another,

they must be truthful and fair at all times. No police officer should sacrifice personal integrity in covering up questionable police practices at the expense of a citizen.

(d) Cst. Murphy's behaviour in the Ogilvie matter is unworthy of a police constable in the performance of his duties.

Gerald Kynock Incident

On April 26, 1983, Mr. Gerald Kynock was removed from his mother's residence at her request by two police constables, Augustus MacIntyre and Bryan Morrison, because he was intoxicated.

Cst. MacIntyre apparently expected trouble with Mr. Kynock as they had had trouble with him before. He was going to yank him out of the house but he made his way out and said, "O.K. guys, I'll go with you". His language in the van on the way to the lock-up was very abusive, especially with reference to Cst. Morrison.

Mr. Kynock gave evidence that he was just sitting in a chair inside the jail at "admittance, where they take your belt, shoelaces," waiting to be locked up, and they (Csts. MacIntyre and Morrison) returned, and "all of a sudden I felt this weird stuff come all the way up alongside my face and in my eye and everything and my eye was watering and my face was burning and I just looked up and said: 'what did you do that for?'" and Cst. MacIntyre said, 'just testing it out' and sort of laughed his way about it. Then they took me in and locked me up and off they were gone." Mr. Kynock said he did not recall who sprayed him with the mace, but the jailer, Mr. Marks, told him that it was Cst. MacIntyre who had done so.

The Commission gave careful attention to the testimony of both constables respecting the use of mace on Mr. Kynock and finds their own statements very damaging.

From the evidence of the two constables it is evident that Mr. Kynock was seated when he was sprayed by Cst. MacIntyre. Cst. MacIntyre says that Mr. Kynock would not remove his boots as requested and assumed a threatening posture while seated. Cst. MacIntyre says, "we thought it was a simple arrest where mace had to be used to save me from getting a punch in the face taking his boots off. Simple as that."

Cst. MacIntyre states that he said to Mr. Kynock, "Gerry, you either take the boots off or you're going to get a shot with mace....and he made a gesture, threw his arms up and put his foot up and said, 'you take the f...ing things off if you want'".

Cst. MacIntyre then testified, "as soon as he did that I just took my mace out and I give it to him. As soon as I give it to him, he took his boots off. The problem was solved. He was told where to wash up .... and he was placed in jail."

Cst. MacIntyre did not seem to realize the damaging effect of his own testimony.

> "Counsel: So he put his boot in the air and he said "You take it off and then what, he put his boot back ...?
>
> Cst.MacIntyre: No, he just held it up in the air.
>
> Counsel: He held it up in the air?
>
> Cst.MacIntyre: Until I gave him a shot of mace and then he just dropped and rubbed his face and started going on about 'You shouldn't have done this'".

Cst. Morrison states that Cst. MacIntyre was 6 to 8 feet away when he used the mace on Mr. Kynock. Cst. Morrison said that he would have used the mace in that situation.

> "Counsel: Other than verbal abuse I don't see anything in your evidence or the other police officer's evidence that he took a swing at you or anything like that. Like, he didn't take a swing at you at all or either of you did he?
>
> Cst. Morrison: No he did not."

Regarding the testimony by Mr. Kynock that the mace was "running down, dripping down" his face, Cst. Morrison testified: "No, he wasn't given that long a burst. Just maybe a 1 or 2 second burst of the mace, that's all he got." S/Sgt. Binns of the Dartmouth Police Department stated: "If more than 1 second spray ...there might be a run."

Cst. Morrison denied that Cst. MacIntyre told Mr. Kynock that he was just testing the mace on him.

It must be noted that Mr. Kynock, while seated, stuck his foot up in the air and invited one of the officers to take his boot off. Both constables admitted that he did not take a swing at Cst. MacIntyre. There was evidence that Mr. Kynock was drunk, "bombed" as Cst. MacIntyre expressed it. It was disturbing to hear the constables agree that mace was justified under those circumstances; Mr. Kynock was in the jail, seated, with his foot stuck up in the air, and inviting the police officer to take the boot off. Cst. MacIntyre's own testimony that he said he told Mr. Kynock to take the boot off or he would get the mace is a startling admission, especially with the use of mace as a dangerous weapon to be used only under very hazardous circumstances. One can hardly term this situation as one of extreme hazard where two constables and a jailer have a seated prisoner in the confined quarters of the jail.

The matter of decontamination procedure, which was not carried out by the police constables, is one of deep concern to the Commission having regard to the health of the prisoner. When asked concerning directions for decontamination to the area of the body exposed to the chemical which must be flushed with water as soon as possible, Cst. MacIntyre acknowledged that he did not carry out the procedure, but told Mr. Kynock to do it and left that up to him.

Cst. MacIntyre admitted that he did not file a report regarding the use of mace as required. He told Mr. Kynock to decontaminate himself adding that if he wanted a towel, it was up to Mr. Kynock to ask the jailer.

In response to a question concerning Section 16 of the Operation Manual, "After initial treatment subject will be inspected and interviewed not less than 30 minutes after exposure nor more than one hour from time chemical used", Cst. MacIntyre said that he did not carry out that procedure, adding Mr. Kynock quieted down ..."nothing else was done".

Cst. MacIntyre admitted that further to Section 18 of the Operation Manual, he did not check for mace on Mr. Kynock's clothing and did not offer him a change of clothing.

When asked by Commission Counsel if he had any annual in-service course in the use of mace, Cst. MacIntyre replied, "no", noting that three weeks prior to this questioning he attended a full day's course on arrest, when to use and not use the mace, and the decontamination process; but prior to that one-day course he took no annual refresher or in-service training on the use of mace.

S/Sgt. Binns of the Dartmouth Police Department stated that the latter one-day course emphasized decontamination more than had been the case on the brief course some time earlier.

Cst. MacIntyre, in response to a question from Counsel for the Chief, stated that he knew that Mr. Kynock should be decontaminated. Cst. MacIntyre admitted that he knew that he should file a report, and that Mr. Kynock was to be given an opportunity to clean up and change clothing; but didn't get around to it.

Cst. Morrison, when asked if he, at that time, was familiar with the decontamination procedure that is supposed to be carried out replied, "Yes, I was."

The Commission notes that neither Cst. MacIntyre nor Cst. Morrison followed through on that knowledge.

Cst. Morrison emphasized that he heard Cst. MacIntyre tell Mr. Kynock very strongly three or four times that if he washed his eyes out with water, the burning sensation would go away. Cst. Morrison adds that he himself told Mr. Kynock to wash his eyes out with water. He says Mr. Kynock was told to wash his eyes out three or five times in the course of a minute. He stated that they left and went back to the streets. Cst. Morrison's ideas on the use of mace, further to his training, included the following: "the mace is part of my equipment, the same as my night stick." He said he would, "rather squirt the mace than use the night stick".

The testimony of these two constables concerning the use of mace is disturbing. Other than admitting that a report was not filed on the use of mace, the Commission got the impression that they thought things were pretty well carried out by the police. The admission that they knew that decontamination should be carried out seemed to have brought no expression of concern for the safety of the citizen in their custody whose protection must be ensured at all times.

The Commission finds that:

(a) Cst. MacIntyre used excessive force on Mr. Kynock when he sprayed him with mace in the jail under the circumstances acknowledged by both

Csts. MacIntyre and Morrison.

(b) Cst. MacIntyre failed to carry out the proper decontamination procedure with the prisoner, following the use of mace, although he admitted that he knew that this procedure should be followed.

(c) Cst. Morrison's approval of Cst. MacIntyre's action in using the mace showed a serious lack of good judgment.

(d) Both Csts. MacIntyre and Morrison should receive further training on the use of mace. Both men appear to have a serious attitudinal problem as police constables regarding the use of this weapon.

Murray Copage Incident

Murray Copage, an Indian, was a passenger in his own half-ton truck driven by Timothy Beals and accompanied by a female passenger, following an evening at Papa Joe's Tavern in Kentville. Evidence from the three passengers indicates that as they were on their way out of Kentville they were almost hit by a Honda which passed them. When the driver stopped at a store, they pulled in behind the Honda. Mr. Copage got out to speak to the driver of the Honda who rolled up his car window and, according to Mr. Copage, began mouthing off. Mr. Copage readily admitted that he hit the car window with his fist and "that was it".

The incident was reported to the Kentville Police. Cst. Morrison gave evidence that he received a call on May 5, 1979, around 10:00 p.m. about, "somebody kicking somebody's car".

The police intercepted the half-ton truck on the main highway in the Blanchard Fraser Memorial Hospital area. Mr. Copage says he got out of the truck and walked back toward the police. His friend, Timothy Beals, was driving without a license so he got out to do the talking.

The evidence is contradictory regarding the confrontation between Mr. Copage and Csts. Turner and Morrison. Mr. Copage says one of the officers asked him what was going on and he explained that it was mainly the other person's fault. Cst. Morrison said Mr. Copage got out and walked very fast toward him, giving him a two-handed push which almost knocked him off his feet. He also says that Mr. Copage was protesting the accusation and using obscene language.

This seems to confirm what could easily have happened, especially if Mr. Copage was accused of kicking "somebody's car" by the police.

Mr. Copage says that one of the police grabbed him and pulled him towards him. "I pulled myself back and the other constable hit me."

Cst. Morrison says that Mr. Copage grabbed Cst. Turner and at that point he was under arrest for assaulting a police officer. Mr. Copage said that he was not charged until later when the handcuffs were put on him.

Mr. Copage stated that he said to the policeman who grabbed him, "Let go of me, pig" and he admitted that he was cursing and swearing at the top of his lungs. This evidence was corroborated by other witnesses that Mr. Copage was shouting and swearing loudly.

Cst. Morrison said he never heard Cst. Turner call Mr. Copage "a yellow spear chucker", nor speak of "18 stitches", which language other witnesses claimed they heard used by the police.

It appears that following the initial scuffle with the two officers, Mr. Copage got into his truck while Cst. Morrison and Cst. Turner waited for back-up which arrived in the person of Sgt. Young who was off-duty when the call came. It is difficult to know how much force was used in the confrontation between Mr. Copage and the two constables before Sgt. Young appeared. There was conflicting evidence concerning the alleged beating and kicking of Mr. Copage by the two police officers. The police officers denied kicking Mr. Copage.

Upon finding out who the man was, Sgt. Young talked with Mr. Copage but he would not go along peacefully. Considerable force was used by the three police officers and Mr. Copage was finally subdued and handcuffed with his hands in front of him. Mr. Copage's great strength was attested to by all three officers.

Asked by the Commission Counsel why he did not lay a complaint against the police for using excessive force, Mr. Copage said, "the only reason I didn't lay a complaint because I felt it was mostly my fault, what happened, cause I was drinking."

Mr. Copage's testimony appeared to be frank and was not self-serving. Mr. Copage also admitted that he got a prescription for pain pills, but that he didn't bother to take them, as although he was bruised and sore his injuries were short lived. He did say that he was kicked in the privates and struck with a flashlight or night stick. Mr. Copage pleaded guilty to the charge of assaulting a police officer in the execution of his duties and paid a fine.

Mr.Timothy Beals, driver of the truck, gave evidence that the two officers were fighting with Mr. Copage and that they kicked him.

Miss Crystal Taylor, the other occupant of the truck, says she didn't see much, but she said a policeman told Sgt. Young when he arrived in response to the radio call for help, "I don't know why he isn't down .... we hit him enough to put a horse down".

Mr. Jeff Durno gave evidence that he and Mr. Greg MacLellan followed the police car chasing the Copage vehicle and went up the road to the hospital where he got out and came down through the woods and saw some of the action. He stated that Mr. Copage was kicked by the police. Mr. Durno said that when Mr. Copage went over the bank, one policeman went to the car and called for assistance.

Mr. Durno said that he was going to make a complaint about the use of excessive force by the police but Mr. Greg MacLellan "went to some official in Town or something like that and they just told him to forget it and there's nothing they could do about it. So I just forgot it myself, too." Mr. Durno felt that it was unfair for the police to take advantage of one person like that.

Mr. Greg MacLellan stated that he saw the police beating Mr. Copage and kicking him. He said he heard Mr. Copage say to the policeman who grabbed him, "Let go pig" and he was cursing and swearing at the top of his lungs. Mr. MacLellan said that he went to see the Chief of Police about the Copage incident and asked him some questions but that it was not a satisfactory meeting as he wasn't able to tell all of his story. He also went to see S/Sgt. Fraser of the R.C.M.P., and then the Mayor, "That's as far as I went".

S/Sgt. Fraser stated that Mr. MacLellan spoke to him with a complaint about the Kentville Police and fears for his safety in the late fall of 1979. S/Sgt. Fraser told Mr. MacLellan he was in the wrong office and directed him to the Chief of Police. Mr. MacLellan told S/Sgt. Fraser that he had been there and didn't get anywhere. S/Sgt. Fraser told him that he should go back, see a Councillor, a Police Commissioner or the Mayor.

Mayor Phinney stated that when Greg MacLellan came to him he asked the Deputy Mayor and Town Administrator to step in the office and then asked Mr. MacLellan if he wished to put a complaint or statement in writing. Mr. MacLellan said, "yes". He dictated his complaint to the Mayor's secretary and signed it. Mr. MacLellan talked with his family and phoned back the next day to say that he did not wish to file an official complaint.

The Mayor kept the statement which he treated as confidential. When the Inquiry got underway he gave the statement to the investigators of the Commission with the understanding that they were to get permission from the parents before the statement could be used.

Chief McRae confirmed that Mr. MacLellan came to his office and started asking questions; possibly around December 1979. He said that Mr. MacLellan was in the bush and saw, "some of my people beat up an Indian". The Chief says he asked Mr. MacLellan why he waited so long and Mr. MacLellan became angry because the Chief told him that the limitation of action was past and there was very little if anything that he could do for Mr. MacLellan. The Chief also stated that at no time did he receive a complaint from anyone regarding Mr. Copage and he never saw the MacLellan statement.

The Commission finds that:

(a) Although Mr. Durno and Mr. MacLellan testified that Mr. Copage was being beaten by the police officers in a manner which they thought was excessive, the Commission accepts that the police constables used only such force as was necessary to subdue Mr. Copage who is an exceptionally strong man.

(b) The police officers who first approached Mr. Copage may have been too quick to treat Mr. Copage as a trouble maker before they heard his side of the story.

The Commission has made comments on the handling of the complaint of Mr. MacLellan in another section of the report.

David Ettinger Incident

David Ettinger, a university student, complained about the conduct of two police officers, Cst. Thomas and Cst. Morrison.

On November 28, 1981, Mr. Ettinger was found by the two constables in an intoxicated state behind the wheel of his father's Buick. He maintains that he was not driving and that his sister had the only set of keys. Cst. Thomas testified that Mr. Ettinger told him he could start the car without the keys. It is agreed that the police obtained the keys from Mr. Ettinger's sister at her apartment. Mr. Ettinger testified that he was not given the prescribed demand; the police constables stated that the breathalyzer demand was given at 3:10 a.m. on the scene.

Mr. Ettinger testified that the two officers made a side trip to the Kentville Jail to lock up a drunk who was picked up while they were on their way to New Minas R.C.M.P. Detachment.

Csts. Thomas and Morrison denied under oath at the trial of David Ettinger on November 4, 1982, and at the Inquiry that they took this side trip. The evidence tendered at this Inquiry concerning this denial raises serious questions regarding the testimony of the two constables.

A log book of phone calls received by the answering service and kept on file at the Kentville Police Department shows an entry of a call at 3:25 a.m. on November 28, 1981, with the following notation: "Jailkeeper wants Richard Graves locked up causing disturbances." "Call received by Cst. Morrison."

A lock-up sheet at the County Jail initialled by "BM", identified by Cst. Morrison as his writing, has a space with the caption: "Booked In (Date, Time & Reason) with the following written in:

"28-11-81 3:30 a.m. BM 85 LCA"

Cst. Morrison testified that he initialled the lock-up sheet later on in the morning, and not at 3:30 a.m.

Mr. Vernon Bennett, the Jailer, testified that he was the Jailer in November 1981 and that the initials "B.M." were Cst. Morrison's. He stated that he presumed the writing on the lock-up sheet, other than that written in by himself, was written by Cst. Morrison because "I presume he admitted the man". When asked, "Would you take a prisoner in the lock-up without him given to you by a police officer?" Mr. Bennett replied, "No way".

Mr. Richard Graves, an inmate at Dorchester Prison, gave evidence that on a cold stormy night in November he went to the County Lock-up to see if he could stay there over night. He was refused admittance by the jailer. As he went back on the street he was picked up by a police van and taken to jail and fined. He recalled that there was a young man in the van who appeared to be upset and who said that he was being taken in for a breathalyzer test. Mr. Ettinger was not identified by name, but the fact that the lock-up sheet initialled by Cst. Morrison indicates that Mr. Graves was placed in the jail at 3:30 a.m. is a remarkable 'coincidence'.

Mr. Ettinger protested that when they arrived at the R.C.M.P. Detachment, he was not permitted to use the telephone by Cst. Thomas until an R.C.M.P. constable came along. Cst. Thomas stated that he did not object to Mr. Ettinger using the phone and did not cut off his conversation.

Mr. Ettinger's sister stated that she "heard somebody in the background that told him to get the hell off the phone", and also someone said, "No, this is your one phone call". The R.C.M.P. constable said that he did hear some conversation about the phone when he came along the hall.

Mr. Ettinger claims that he was handcuffed and struck by Cst. Thomas. All the police officers testified that Mr. Ettinger was never handcuffed. Cst. Thomas denied that he struck Mr. Ettinger in the face with his fist. Mr. Ettinger protested in his phone call to his sister and to his lawyer, Ms. Arlene Joughin, that he had been hit; also to his father. Cst. Morrison and the R.C.M.P. constable denied that they saw Mr. Ettinger being struck and saw no signs of any altercation.

Cst. Thomas admitted that as Mr. Ettinger was leaving the New Minas Detachment, Mr. Ettinger said that he could hardly wait until he saw Cst. Thomas when he was not handcuffed. Cst. Morrison and the R.C.M.P. constable denied hearing Mr. Ettinger say this. Mr. Ettinger's father and sister testified that they heard Cst. Thomas reply, "You little bastard, I'll kill you". Cst. Thomas denied saying this and apparently no other officer heard Cst. Thomas make such a response. They agreed that Mr. Ettinger was asked to quiet down as he was leaving.

The time frame of this incident, therefore, appears to be as follows:

3:10 a.m. Csts. Morrison and Thomas agreed that the breathalyzer demand was given on the scene to Mr. Ettinger.

3:25 a.m. The Kentville Police Department log of phone calls indicates that a phone call was received by the answering service and relayed to and acknowledged by Cst. Morrison concerning Mr. Graves.

3:30 a.m. The lock-up sheet initialled by Cst. Morrison indicates that Mr. Graves was placed in the lock-up.

3:30 a.m. or slightly later Mr. Ettinger and the police arrived at the New Minas Detachment of the R.C.M.P.

3:50 a.m. Cst. Morrison was talking with Ms. Arlene Joughin, Mr. Ettinger's lawyer. He said that she stated she would be there in 10 minutes.

3:50 a.m. Ms. Joughin, referring to her notes, said that she called the New Minas Detachment and spoke with Cst. Hallett of the R.C.M.P. She states that she spoke with Cst. Morrison at **3:59 a.m.** and that she told him that she would be there in 15 minutes.

4:22 a.m. Ms. Joughin says that she arrived at the New Minas Detachment from Coldbrook. On arrival she advised Mr. Ettinger to take the breathalyzer test.

4:25 a.m. Cst. Thomas testified that Mr. Ettinger was presented to the breathalyzer. He also said that it took Ms. Joughin "about 1 hour and 20 minutes for her to get there". If Cst. Morrison was correct in that he was speaking with Ms. Joughin on the phone at 3:50 a.m. and she arrived at 4:27 a.m., then it took her 37 minutes by his calculation to get there, not 1 hour and 20 minutes as Cst. Thomas suggested.

4:27 a.m. Cst. Morrison says Ms. Joughin arrived. He decided it was too late to qive the test. There was not enough time.

4:30 a.m. The appearance notice was issued to Mr. Ettinger.

Taking the widest range of time from the testimony of the two constables, it may be stated that the breathalyzer demand was given at 3:10 a.m. and Ms. Joughin was at the Detachment at 4:27 a.m. and advised Mr. Ettinger to take the breathalyzer test. If the appearance notice was given to Mr. Ettinger at 4:30 a.m., after Cst. Morrison refused to carry out the breathalyzer test, then a period of 1 hour and 20 minutes had elapsed between the arrest of Mr. Ettinger and the issuance of the notice of appearance. This appears to leave a period of at least 40 minutes for the breathalyzer test in keeping with the two hour time limit under ordinary circumstances.

The Commission finds that:

(a) Cst. Morrison and Cst. Thomas misrepresented the facts, either intentionally or unintentionally, when they testified that they did not make the side trip to the County Jail while they were taking Mr. Ettinger to the New Minas Detachment for a breathalyzer test.

(b) The credibility of the testimony of the two police officers concerning alleged handcuffing and beating of Mr. Ettinger at the New Minas Detachment of the R.C.M.P. is in serious doubt.

(c) Cst. Morrison appeared to have sufficient time to conduct the breathalyzer test after Ms. Joughin arrived and advised Mr. Ettinger to take it.

Fraser Hebb, Jr. Incident

In July 1980, Mr. Fraser Hebb, Jr. was arrested in Wolfville by a member of the Wolfville Police Department for impaired driving. He was escorted to the Kentville Police Station by Cst. Sampson and Special Cst. Druken.

Mr. Hebb was given the breathalyzer demand in Wolfville. Cst. Sampson stated that Mr. Hebb was very unco-operative and abusive. This testimony was confirmed by Cst. Druken.

Mr. Hebb was handcuffed with his hands in front of him but enroute to Kentville he tried to put the car window down. The police were concerned lest he put the car window down and try to get out of the car. They stopped the car, handcuffed him with his hands behind his back and placed him on his stomach in the back seat. The handcuffs were put on Mr. Hebb by the Wolfville Police.

Upon arriving at the Kentville Police Station, Mr. Hebb was taken for the breathalyzer test which was conducted by Cst. David Murphy of the Kentville Police Department.

Cst. Druken, who has served approximately 15 years on the Wolfville

Police Force, testified that at the breathalyzer instrument Mr. Hebb was abusive, cursing and swearing. Cst.Druken said they sat Mr. Hebb at the instrument and he "kept an eye on him" as he stood in the doorway of the room watching. Cst. Druken said that there was an exchange of words between Mr. Hebb and Cst. Murphy. "The young fellow was cursing and swearing and calling him a pig and stuff like that, and Cst. Murphy responded with the same type of words, long haired hippie type of thing or punk."

Cst. Murphy testified, "Maybe I did have an argument with him", and it was possible that he could have used some of the language attributed to him in response to Mr. Hebb.

Cst. Druken stated that "Cst. Murphy backhanded him (Mr. Hebb) one in the face ... struck him ... hauled back and hit him in the face with the back of his hand." Mr. Hebb sat down and was quiet after that.

Speaking of the force of the blow, Cst. Druken said, "I wouldn't want to get one. It was quite hard." When asked by Counsel, "From what you saw did you see any justification for that blow?" Cst. Druken replied, "It was unnecessary. I thought that the Constable acted in a very unprofessional manner. Everyone you pick up under that condition, drunk, you're bound to get this type of abuse".

Cst. Sampson said that Cst. Murphy's slap across Mr. Hebb's face "was something like a parent would give a child to quiet him down ... it wasn't anything I would get overly upset about".

Cst. Murphy says he "slapped him (Mr. Hebb) lightly with my left hand and it wasn't the back of my hand, it was the palm of my hand". When asked, "Did he (Mr. Hebb) assault you?" Cst. Murphy replied, "No ... but I thought he might have when he got up with his hands out of control".

While they both agreed that Mr. Hebb was abusive and swearing, there was no evidence given by either Cst. Sampson or Cst. Druken that Mr. Hebb tried to strike the breathalyzer instrument or Cst. Murphy.

The Commission finds that:

Regardless of the nature and force of the blow administered by Cst. Murphy and acknowledged by him, this act by Cst. Murphy constituted an assault upon the person of Mr. Hebb while in his custody and was an unprofessional act.

Anthony Clements & Douglas States Incidents

Mr. Harmon Illsley testified before the Inquiry in relation to an incident involving Anthony Clements in approximately 1981.

Mr. Illsley stated that he was driving up Aberdeen Street in Kentville when he parked his car at Peter Cleyle's store and observed Cst. Dunfee and Special Cst. Benjamin talking to Mr. Tony Clements beside the police vehicle. It appeared to Mr. Illsley that they were suggesting that Mr. Clements get inside the vehicle. Mr. Illsley did not see any particular problems or difficulties at this time.

Cst. Murphy, while off duty, appeared on the scene and proceeded to call Mr. Clements "Nigger Boy" on several occasions. Mr. Illsley testified that this appeared to aggravate Mr. Clements and he tried to break away from the police officers. The constables were able to restrain him. As he was being placed in the police car, Cst. Murphy made a kick at Mr. Clements. Once Mr. Clements was in the car, the officers drove away. Mr. Illsley claims to have had an unobstructed view of the situation.

Anthony Clements testified before the Inquiry. Mr. Clements resides in Fort McMurray and was, at one time, a resident of Kentville and an employee of the Big Apple Tavern. He stated that he and Mr. Douglas States had come to the Aristocrat Tavern to celebrate beating a breathalyzer charge. Csts. Murphy and Dunfee where the charging officers. Apparently, Cst. Murphy was off duty and present in the Aristocrat Tavern when Mr. Clements and Mr. States arrived. An argument ensued between Cst. Murphy and Messrs. Clements and States. At one point, Cst. Murphy was hit in the face by Mr. States.

Mr. Clements testified that he and Cst. Murphy eventually ended up in the alley to continue their fight. The police were called and the sound of the police siren caused the parties to scatter. Mr. Clements ended up near Robinson's Supplies where he was stopped by a police vehicle containing Cst. Dunfee and Special Cst. Benjamin. He indicated that Cst. Murphy ended up there also and there was more arguing and he became upset when Cst. Murphy kept calling him "Nigger".

Mr. Clements was eventually squeezed in the back seat of the police car with Cst. Murphy. Mr. Clements testified that Cst. Murphy put his forearm which was in a cast to Mr. Clements' throat and said that he "didn't want me, he said he wanted that black nigger States".

Mr. Clements further says that Cst. Dunfee advised Cst. Murphy that they couldn't charge Mr. Clements unless Cst. Murphy was also charged as both parties had been drinking. Mr. Clements was let out of the car in front of the Big Apple Tavern. No charges were laid.

Mr. Douglas States testified in relation to the Clements/Murphy incident. He stated that he and Mr. Clements were at the Aristocrat Tavern celebrating a breathalyzer victory by Mr. Clements. He confirmed that an argument ensued between Mr. Clements and Cst. Murphy as to who was the biggest liar in Court. He also stated that Cst. Murphy advised him that he had a new partner. Mr. States decided to see how tough the individual was and upset the table and chairs and beer bottles. He said on cross-examination that he may have struck Cst. Murphy in the face. The scuffle moved to the alley and that was the last Mr. States saw of Cst.

Murphy.

Cst. Murphy testified with regards to the incident concerning Mr. Tony Clements. He confirmed the altercation in the Aristocrat with Mr. Clements. He also said that he had outpatient surgery on his hand on the day of the incident and that his hand was in a cast when he was in the tavern. He testified that he was involved in an altercation initiated by Mr. States. He says that Mr. States punched him in the mouth, chipping his teeth. He says they ended up in the alley. Eventually he met up with Mr. Clements by Robinson's Store. He testified that an argument ensued and he punched him in the face. Shortly after, the police arrived and they were both placed in the back seat of the car.

Cst. Murphy did not deny that it was possible that he called Mr. Clements "Nigger Boy" or that he tried to kick Mr. Clements.

Mr. States also related another incident outside the Aristocrat Tavern in September 1979. He was arrested by Cst. Murphy for outstanding warrants. He says that he was taken by police van to the lock-up and not advised as to the reason for the arrest on the outstanding warrants. Upon arrival at the County Lock-up, Mr. States says Cst. Murphy did a body search and he was struck by Cst. Murphy on the side of his head and knocked to the floor. He was subsequently kicked in the ribs.

At this point Mr. States says he was yelling for an explanation when he was then, and only then, advised of the reason for the warrants. He then showed Cst. Murphy paid receipts for the fines and was released. He said that he then went to the hospital to have a full medical report prepared. The report revealed that he had broken skin on his skull and tender areas in his mid section. A written complaint was sent to the Chief of Police, the Attorney General and the Kentville Board of Police Commissioners.

Cst. David Murphy testified in relation to the Douglas States incident.

He stated that he had advised Mr. States prior to the incident that he had a couple of warrants outstanding for failure to pay fines and that he should attend to the same. He said that he later checked and found that the fines were still outstanding and that he, accordingly, arrested Mr. States outside the Tavern. He says Mr. States would not leave the police van when it arrived at the lock-up and had to be pulled out. He testified Mr. States would not voluntarily enter the lock-up and force had to be used to get him inside. As this was happening, he testified that Mr. States fell and struck his head. He says that when searching Mr. States, he found the receipts for the fines and asked Mr. States why he hadn't told him about these receipts earlier. He also testified that the money order receipts were blank but he gave Mr. States the benefit of the doubt and released him.

He also testified that the police van drove Mr. States home from the hospital.

The Commission finds, in relation to the Anthony Clements incident, that:

(a) While Cst. David Murphy was off duty he engaged in an altercation with Mr. Anthony Clements. The incident culminated in a confrontation near Robinson's Supplies. The precipitating factor at this location was Cst. Murphy's calling Mr. Clements "Nigger Boy". The racial remarks of Cst. Murphy cannot be justified under any circumstances. Such conduct brings discredit to the individual and to the position of police officer.

(b) There were either kicks or punches thrown by both parties.

(c) Alcohol was an influencing factor for both parties' actions.

(d) A police officer must be ever vigilant, in the eyes of the public and the law, that he is a peace officer 24 hours a day and must govern himself accordingly.

(e) Cst. Murphy's conduct in this instance falls far short of the standard expected of police officers serving the Town of Kentville.

The Commission finds, in relation to the Douglas States incident, that:

(a) Cst. Murphy used unnecessary force against Mr. States at the County Lock-up. The Commission does not accept Cst. Murphy's testimony that Mr. States fell while entering the lock-up.

(b) Cst. Murphy's approach in the entire matter was unsatisfactory. No charges were laid against Mr. States due to the fact that he had receipts for the alleged outstanding fines. The entire incident could have been avoided if Cst. Murphy had advised Mr. States that he was arresting him for the outstanding warrants in relation to unpaid fines at the time he was stopped outside the tavern.

Michael Keddy, David Eisnor and Wayne MacDonald Incidents

Mr. David Eisnor testified before the Inquiry and dealt with an incident in the summer of 1982. He stated that he and Mr. Keddy were walking home at approximately 4:30 one afternoon when they were stopped by Csts. Murphy and Dunfee and charged with a Liquor Control Act offence and delivered to the lock-up. Upon arrival he states that he and Mr. Keddy were required to strip in the public portion of the lock-up and then placed in the drunk tank naked. They were released and he later pled guilty to the Section 85 LCA charge.

The evidence of David Eisnor to a certain extent is unsatisfactory in that he is generally uncertain which officers of the Kentville Police

Department required him to strip in the public area of the lock-up.

Mr. Wayne L. MacDonald testified about an allegation of a strip search and beating at the hands of Cst. Cooper and Sgt. Young. Mr. MacDonald admitted to being extremely drunk on the night in question having been partying and had consumed at least 40 ounces of liquor. Mr. MacDonald was extremely vague and unsure of his testimony. The Commission placed no reliance on the evidence of Mr. MacDonald.

Cst. Cooper testified with regard to Mr. Wayne MacDonald and stated that any time he had dealt with Mr. MacDonald he had had no incidents of trouble. He denied ever strip searching Mr. MacDonald but stated that he had searched him on previous occasions.

Mr. Michael Keddy testified before the Inquiry and dealt with four incidents. The first incident dealt with an occurrence at Centre Square Parking Lot in the early evening when he was with two other individuals. They were approached by Cst. Dunfee and another unidentified constable. He states that when one individual was being placed in the van, he was questioned by Cst. Dunfee but kept walking away. Apparently, he was subsequently grabbed and shoved down on the parking lot. Cst. Dunfee apparently said to him, "if you don't smarten up, you're going to get mace in the face or something like that". While on the ground and moving around Cst. Dunfee tried to put the handcuffs on Mr. Keddy and Mr. Keddy resisted. At that point, Mr. Keddy said Cst. Dunfee sprayed him in the face with mace. He was then removed to the County Lock-up and charged with Section 85, LCA. No decontamination procedures were provided to Mr. Keddy.

The second incident related to his association with Mr. David Eisnor previously detailed. Mr. Keddy was uncertain as to who stopped him, but felt that it was Cst. Reade. He testified that both he and Mr. Eisnor were taken to the lock-up and required to strip and were placed in the cells. Mr. Keddy apparently got his clothes back on prior to being placed in the cells. He says they were given no reason for the strip search.

He subsequently paid a fine for Section 85 LCA offence.

The third incident concerned Mr. Keddy and Mr. Wayne Ward who were both arrested and placed in the police van. Mr. Keddy testified that upon arrival at the lock-up, Mr. Ward was struck with a billy club a number of times by Cst. Cooper after he was taken from the van. Mr. Keddy testified that he was reluctant to get out of the van until he had received assurances that he would not be beaten. He apparently got out of the van unharmed. Cst. Cooper had no recollection of an incident involving himself, Mr. Keddy and Mr. Wayne Ward.

The fourth incident concerned his arrest for Section 85 LCA after leaving the Big Apple Tavern. Apparently Mr. Keddy was intoxicated and felt that the police should have driven him home rather than being charged.

Cst. David Murphy testified that he had never been involved in a strip search of Mr. Keddy. He also testified that he arrested Mr. Keddy outside the Big Apple Tavern due to the fact that he was grossly intoxicated. He testified that Mr. Keddy was outside the Tavern with a pint or a glass of beer and that he could barely walk.

Cst. George Dunfee testified with regard to the Centre Square Parking Lot incident with Mr. Keddy. Csts. Dunfee and Andrews heard breaking glass in the parking lot area early in the morning. Cst. Dunfee testified that he placed Mr. Keddy under arrest for intoxication. He testified that Mr. Keddy gave him a shove when he was placed under arrest. Cst. Dunfee said he already had the mace out and gave him a shot and chased him down an alley where he was handcuffed and taken to the van and subsequently to the lock-up. Cst. Dunfee acknowledged that Mr. Keddy was intoxicated and Mr. Keddy's shove did not knock him down. Cst. Dunfee testified the reason why he sprayed Mr. Keddy in the face was, "He resisted my arrest and he made another step towards me".

Cst. Dunfee stated that he told Mr. Keddy to wash his eyes out if they bothered him. He denied requiring a strip search and he said that he would use mace in the same circumstances again.

Cst. Dunfee also testified that he did not file a report as required after the use of mace. He also stated that this was his one and only use of mace.

Cst. Cooper also testified before the Inquiry. He dealt with the arrest of Mr. Keddy outside the Big Apple Tavern. The Constable confirmed that Mr. Keddy was grossly intoxicated and that he was arrested and taken to the lock-up rather than being allowed to go home on his own. Cst. Cooper felt that it was in Mr. Keddy's best interest to be locked up.

Cst. Cooper also stated that a person would only be placed in a cell with no clothes on if he was suicidal.

The Commission finds that:

(a) It rejects entirely the evidence of Mr. Wayne L. MacDonald as being unfounded due to his gross intoxication at the time.

(b) Mr. Eisnor was required to spend several hours in the cells clad only in his underwear. This was the type of event that would stand out in one's mind even if he was confused as to the identity of the officers involved. There was apparently no justifiable reason for such an imposition upon this individual. There is a section later in the report dealing with strip searches.

(c) All proper procedures and police practices were followed following the arrest of Mr. Keddy outside the Big Apple Tavern.

(d) Any allegations related to the Mr. Wayne Ward incident are totally unsupportable.

(e) The use of the chemical mace by Cst. Dunfee on Mr. Keddy in the incident at the Centre Square Parking Lot was unjustified under the circumstances.

(f) Cst. Dunfee failed to carry out the decontamination procedure and did not file an incident report.

Derrick Chisholm Incident

Mr. Chisholm testified before the Inquiry on an incident that occurred in November 1982 outside the Big Apple Tavern in the Town of Kentville. Mr. Chisholm admitted that he had been drinking fairly heavily prior to the incident.

Apparently, Mr. Chisholm and another individual were attempting to settle their differences outside the Tavern with an exchange of fisticuffs which drew a crowd of spectators.

Csts. Cooper and Reade arrived on the scene. Cst. Reade place Mr. Chisholm under arrest for intoxication and possibly creating a disturbance.

Mr. Chisholm, however, was determined not to get into the police van peaceably and a struggle ensued to place him inside. Once inside Mr. Chisholm virtually went berserk. He ran at the walls of the van with his head; he kicked and damaged the interior doors of the van; and cursed and swore all the way to the lock-up.

Once at the lock-up, Mr. Chisholm refused to come out of the van and continued his kicking and cursing and general uproar.

Csts. Doyle and Baird of the R.C.M.P. were on hand at the lock-up and attempted to calm Mr. Chisholm down, however, to no avail. Cst. Doyle attempted to enter the van and he was kicked in the face.

The evidence discloses that Cst. Reade then sprayed mace on Mr.

Chisholm in an effort to enable the officers to get him out of the van. This apparently had little initial effect and Mr. Chisholm had to be sprayed again. Mr. Chisholm was now subdued and physically brought into the cell area where a further struggle ensued. Mr. Chisholm then testified that one of the R.C.M.P., "put the boots to his back". All of the police constables denied that Mr. Chisholm was kicked. Mr. Chisholm was stripped and placed in a cell. Mr. Chisholm was totally uncooperative in identifying himself or going to the actual cell.

Mr. Chisholm was charged with assaulting a police officer, public mischief and causing damage to a police vehicle. Mr. Chisholm, through his lawyer, entered guilty pleas to all counts and was placed on probation for 9 months.

Csts. Cooper and Reade testified and confirmed, in essence, the above factual situation.

The Commission finds that:

(a) Mr.Chisholm was involved in an altercation outside the Big Apple Tavern while in an intoxicated condition. Mr. Chisholm was totally unco-operative with Csts. Reade and Cooper when he was lawfully placed under arrest. Csts. Reade and Cooper were dealing with a man who had gone berserk while enroute to the County Lock-up.

(b) No more force than was necessary was used by the officers in bringing Mr. Chisholm under control. To a considerable extent, Mr. Chisholm was the author of his own misfortune.

Christopher Munro Incident

Mr. Munro testified relating to an incident in September 1982 where he was arbitrarily detained by Csts. MacIntyre and Reade outside the jurisdiction of the Town of Kentville for a minor traffic violation. Mr. Munro was placed in the Kentville Police van and kept there until the R.C.M.P. arrived. Mr. Munro testified to being pushed and threatened by Cst. MacIntyre. No charges were ever proceeded with against Mr. Munro.

Solicitor Bruce Gillis was retained by Mr. Munro and a complaint was made pursuant to the Police Act to Chief McRae in relation to the conduct of Cst. MacIntyre. Mr. Munro was notified by a Form 9 that Cst. MacIntyre had received a verbal reprimand and Mr. Munro was satisfied with the outcome.

Chief Ross Campbell testified that, at the time of the incident, he was a corporal with the Kentville Police Department and appointed by Chief McRae to investigate the Munro complaint. Chief Campbell stated that he interviewed a number of witnesses and took statements. Cst. MacIntyre refused to give a statement. Chief Campbell recommended a verbal reprimand be given to Cst. MacIntyre; in-house service training be given in relation to jurisdiction and powers of arrest on provincial statutes; that the Crown Prosecutor be contacted to lecture on police officers' power of arrest outside jurisdiction; and that Solicitor Gillis be contacted and advised that they were at liberty to prosecute a common assault charge should they be so inclined. Chief Campbell's investigation report was delivered to Chief McRae and it was his understanding that Cst. MacIntyre was given a verbal reprimand.

Chief McRae testified that it never crossed his mind to try to resolve informally the Munro complaint under Section 52 of the Police Act. He testified that upon receipt of the report of Cpl. Campbell, Cst. MacIntyre was given a verbal reprimand and the report was passed on to the Board of Police Commissioners. Despite the fact that Munro had been detained out of the jurisdiction, that there was a physical altercation, and detention in a police vehicle, Chief McRae felt that this was a minor breach and that a verbal reprimand was appropriate.

The Commission finds that:

(a) Chief Campbell did not properly follow the requirements of Section 11(2) of the Regulations under the Police Act which state as follows:

> **"(2) The investigating officers shall make recommendation whether the matter should be disposed of (a) by laying disciplinary charges or (b) by advising the member who is alleged to have committed a disciplinary default as to his future conduct, or (c) by taking no further action"**

(b) All members of the Kentville Police Force above the rank of constable, should be adequately instructed on the procedures to be followed under the Regulations made under the Police Act.

(c) The award of a verbal reprimand to Cst. MacIntyre was not a severe enough punishment under the circumstances.

(d) Cst. Reade, the senior constable, should have known that the two constables were outside of their jurisdiction and, therefore, had only the powers of arrest of a private citizen under the Criminal Code.

John O'Brien Incident

Mr. O'Brien testified before the Commission with regard to an incident involving certain members of the Kentville Police Department.

Mr. O'Brien and some friends, Mr. Bradley Rogers and Mr. Brian Keddy, were visiting Mr. Len Boutilier at an apartment in Kentville. Over the course of the evening liquor was consumed and music played. At one point, Mr. Boutilier's common-law wife requested Mr. O'Brien and his friends to leave the apartment. Mr. Boutilier, however, insisted that his friends stay in the premises. When the individuals would not leave the apartment, the common-law wife apparently requested the assistance of the Kentville Police Department.

Mr. O'Brien testified that discussions took place with the officers. Mr. Rogers found himself out in the hallway and later downstairs. Mr. O'Brien eventually followed and was told he was now in a public place, and arrested. The officers attempted to place Mr. O'Brien in handcuffs, however, he claimed to have a phobia about being restrained and tried to get away. Mr. O'Brien testified that he punched one of the officers in the face, ran around the car and eventually ended up running into the arms of the second officer. He was contained and brought to the County Lock-up.

Mr. O'Brien testified that upon arrival at the lock-up, he was placed in the cells for approximately 3 hours clad only in his underwear. Mr. O'Brien was charged with being drunk and disorderly in a public place and paid a fine.

Mr. O'Brien was unable to identify who the officers were on the night in question. In addition, Mr. O'Brien did not feel that he had been mistreated.

The next witness was Mr. Bradley Rogers who was at the Boutilier apartment on the night of the altercation. Mr. Rogers' testimony was vague and inconclusive. He recalled very little of the events and was unable to identify any of the officers.

The next witness was Cst. Murphy who testified that he could remember absolutely nothing of the incident. He could not remember any arrest or whether or not he had been struck in the face. He did confirm that Cst. MacIntyre advised him that he had been present.

Cst. MacIntyre testified that he was vaguely familiar with the event.

However, he then went on to describe in considerable detail the events in question. Cst. MacIntyre described the altercation in the Boutilier's apartment even to the point of indicating that one of the individuals stated he was a black belt in karate and pulled out a card bearing Japanese and English writing. Cst. MacIntyre also described Cst. Murphy chasing Mr. O'Brien around the police van and the subsequent apprehension. Cst. MacIntyre described using force to put Mr. O'Brien into the van. At this point, Cst. MacIntyre's memory is completely vague and he claims he has no recollection of getting to the jail or stripping Mr. O'Brien.

The Commission finds that:

(a) Csts. Murphy and MacIntyre used no more force than was reasonably necessary in placing Mr. O'Brien under arrest and transporting him to the County Lock-up.

(b) Cst. MacIntyre's testimony was extremely selective.

(c) Mr. O'Brien was placed in the cell at the County Lock-up for a period of upwards of 3 hours clad only in his underwear. There appears to be no valid reason for such procedure to have been followed and the Commission condemns such a practice under the given factual circumstances.

Mark Spencer Leefe Incident

In or about April 1982, Mr. Leefe was in a parked automobile with Gerald Kynock in the Town of Kentville. The two were approached by Csts. Murphy and Morrison and Mr. Kynock was observed shoving a marijuana cigarette down between the console of the automobile. Accordingly, Mr. Kynock was charged with possession under Section 3 of the Narcotic Control Act and the matter came on for trial.

Mr. Leefe testified at Mr. Kynock's trial and claimed possession of the marijuana cigarette. Mr. Leefe testified under the protection of the Canada Evidence Act. Despite Mr. Leefe's evidence, Mr. Kynock was convicted.

Subsequent to the trial, Cst. Murphy was instructed by the Federal Crown Prosecutor, Mr. Leroy Lenethen, to serve an appearance notice under Section 3(1) of the Narcotic Control Act on Mr. Mark Leefe with regard to the same incident involving Mr. Kynock.

Mr. Derrick Kimball, the solicitor for Mr. Leefe, testified that he wrote Prosecutor Lenethen requesting that charges against his client be dropped in the interests of justice.

Cst. Murphy testified that he had met with the Leefe family who expressed concern over the incident. Apparently, the Leefe boy had no previous criminal involvement, was going to school in Halifax, and in Cst. Murphy's opinion, may very well have been a victim of circumstances. Cst. Murphy approached Prosecutor Lenethen and requested that the charges be withdrawn in view of the aforementioned circumstances. The charges were subsequently withdrawn by the Crown.

The Commission finds that:

(a) Cst. Murphy was instructed by the Federal Crown Prosecutor to lay charges against Mark Spencer Leefe in relation to an incident involving himself and Gerald Kynock.

(b) There was no fault on the part of Cst. Murphy and also finds that Cst. Murphy exercised his discretion in recommending that charges against Mark Spencer Leefe be withdrawn.

David Shaw Incident

Mr. David Shaw testified that about five years ago he was arrested on a drug-related charge by Csts. Youden and Best of the R.C.M.P. New Minas Detachment. At the point of arrest the complainant alleged that he was struck in the face with a flashlight and subdued after he attempted to escape. Mr. Shaw alleged that at the Kentville lock-up he was stripped and beaten by Cst. Youden and a Kentville Police Officer. Mr. Shaw was unable to identify the Kentville officer.

Mr. Shaw made reference to another occasion where he was arrested by Cst. Murphy for intoxication. At this time he alleged he was skin searched and struck by the Constable. Cst. Murphy played no role in the first matter and denied performing improper searches or striking Mr. Shaw in the second.

Returning to the first incident, Cst. Youden testified that the complainant was high on drugs and alcohol, aggressive and abusive, and physically resisted arrest. At the Kentville lock-up it was Cst. Moore that assisted Cst. Youden in his search of Mr. Shaw. Mr. Shaw violently resisted attempts by Cst. Youden to search the complainant. Cst. Youden gave further evidence that he was involved in a continuous fight with Mr. Shaw when Cst. Moore offered assistance to control the complainant.

The Commission was not impressed by Mr. Shaw as a witness and gave no credibilitfy to his evidence.

The Commission finds that Mr. David Shaw's complaints have no merit.

Arthur and Timothy Purchase Incidents

Mr. Arthur Purchase had three complaints about his treatment by the Kentville Police Force.

The first of these occurred during the autumn of 1979. when he and a friend were passing through Kentville on foot at about 2:00 a.m. The police van pulled up and they were ordered to get into the back of the van. The van proceeded to the back of the police station. Mr. Purchase claimed that the police officers in the van were Csts. Morrison and Turner. Mr. Purchase's friend was ordered out first. After the police had dealt with him, Mr. Purchase was ordered out.

Mr. Purchase alleges that he was pulled or pushed as he got out of the van and fell to the ground. When he got up he was ordered to empty his pockets and searched. When he was picking up his belongings, Mr. Purchase alleges that one of the Constables put his foot on his hand.

Mr. Purchase alleges that subsequently Cst. Turner punched him in the eye.

Cst. Morrison testified that he has no recollection of this incident and stated that Cst. Turner had only been with the Department for one year and during that time he only served three shifts with Cst. Turner.

As Cst. Turner is no longer a member of the Kentville Police Department, the Commission will not comment on the merits of this complaint.

The second incident occurred during the summer of 1980. It was suspected that Mr. Arthur Purchase and at least one other person were involved in trafficking in drugs. The Kentville Police set up a surveillance operation involving three constables. Cst. Murphy testified that from his surveillance position he observed Mr. Purchase and another person making what he assumed to be drug transactions. Cst. Murphy confronted Mr. Purchase who ran off with the Constable chasing him. Mr. Purchase stated that he outran Cst. Murphy but was apprehended by Cst. Reade who was hiding in the bushes along the railway track. Both Cst. Murphy and Cst. Reade testified that it was Cst. Murphy who apprehended Mr. Purchase and that Cst. Murphy called the police van which was being driven by Cst. Reade.

Mr. Purchase alleged that when he was climbing into the back of the van, Cst. Murphy kicked him in the rear end. Both Csts. Murphy and Reade deny that this occurred.

When the van arrived at the police station, Cst. Murphy took Mr. Purchase from the van to the breathalyzer room where he searched him with no one else present. Mr. Purchase testified that he was ordered to "take all my clothes off". On the other hand, Cst. Murphy testified that he searched Mr. Purchase and got him to "drop his jeans" and "to drop his underwear". The subject of strip searches will be dealt with later in this report.

Cst. Murphy found no evidence of drugs and Mr. Purchase was allowed to depart.

In another incident Mr. Arthur Purchase, with four other youths, was outside the Kentville Arena fighting with Mr. Wyatt Bond when the police van drove up. Cst. Reade, the driver, got out of the van and arrested the two antagonists. Cst. Reade testified that he was writing out appearance notices for Mr. Purchase and Mr. Bond when Mr. Bond's father arrived at the door of the police vehicle. Cst. Reade explained what had happened to Mr. Bond Sr. and released Mr. Wyatt Bond into his custody after giving Mr. Wyatt Bond an Appearance Notice.

Cst. Reade remained behind to disperse the gathering in the arena parking lot and Cst. Morrison became the driver of the van. Apparently, at about that time, the mobile patrol was ordered to investigate a burglar alarm at the Kentville Industrial Park which proved to be a false alarm. Mr. Arthur Purchase was not aware of this and became apprehensive as to why the van was proceeding away from the downtown area.

The van returned to the arena, Cst. Reade got in and the van proceeded to the County Lock-up. Because of the actions of Mr. Purchase and the way he was talking, the Constable decided to lock up Mr. Purchase until he cooled down. Mr. Purchase was released from the lock-up about 4 hours later at which time he was given an Appearance Notice charging him with creating a disturbance.

Mr. Arthur Purchase's criminal record records three or four drug-related convictions.

The Nova Scotia Police Commission finds that:

(a) On the basis of the evidence before it, that it cannot accept that Mr. Arthur Purchase was kicked by Cst. Murphy.

(b) The strip search of Mr. Purchase by Cst. Murphy was appropriate in the circumstance.

(c) The incident at the Kentville Arena involving Arthur Purchase was handled in a professional manner by Cst. Reade.

Timothy Purchase, a younger brother of Arthur, was also involved in three incidents with the Kentville Police about which he gave testimony before the Commission.

The first one occurred in July 1982, when Timothy Purchase and a friend stated they were crossing Cornwallis Street on the crosswalk when the police van drove past. He stated that Cst. MacIntyre, the driver of the van, yelled at him through the open window, "use the crosswalk". Mr. Purchase stated he yelled back, "I am". On the other hand, Cst. MacIntyre testified that as he was turning the corner from Cornwallis Street onto Aberdeen Street he observed two youths jaywalking and yelled at them to use the crosswalk. He did not hear their reply but surmised it was some sort of smart remark. In any event, Cst. MacIntyre pulled the police van into the curb just ahead of the two young men. When he got out he stated he saw

Mr. Purchase put his right hand to his mouth as though he were going to put something in his mouth. Cst. MacIntyre thought it might be a narcotic. The Constable testified that he placed Mr. Purchase against the side of the van and asked him to empty his pockets on the seat. No drugs were found and Mr. Purchase was released. On the other hand, Mr. Purchase alleges that when Cst. MacIntyre got out of the van, he was roughly handled against the side of the van, searched, hit on the head and grabbed by the throat before he was released.

Mr. Timothy Purchase tended to be evasive on cross examination but admitted that he was not totally truthful when he gave a statement to the Commission's investigators. His credibility as a witness is in serious doubt.

Mr. Purchase has an extensive criminal record, mostly minor offences, although he has one conviction for possession and one for trafficking in narcotics.

The second incident involved a charge of loitering again involving Cst. MacIntyre. Mr. Purchase testified that he did not think a charge of loitering was justified as he and his friend who had just come out of the Broken Cue were only on the street for about two minutes when the van pulled up and they were ordered into the van and given an Appearance Notice.

On the other hand, Cst. MacIntyre testified that because of the loitering problem in the area of the Broken Cue, the publicity given to it, and the instructions of the Chief of Police to be severe with all loiterers, the Kentville Police were very conscious of the problem. Mr. Purchase and his friend were timed as being in their position in front of the Broken Cue for in excess of six minutes. Mr. Purchase appeared in court, was found guilty and fined.

The third incident occurred when Arthur and Timothy Purchase were walking down Cornwallis Street. Three police officers approached them from the opposite direction. Cst. Murphy was on the outside nearest to the road, Cst. Andrews was in the middle. Both of these officers were on duty and in uniform. Cst. Thomas who was off duty and in plain clothes was on the inside.

As the Purchase brothers passed the police officers, Cst. Thomas claims that Timothy Purchase raised his arm and touched his hair although Mr. Purchase denies this. The other two police officers, however, testified that they saw some movement of the arm of Mr. Timothy Purchase nearest to Cst. Thomas but did not see any contact made with Cst. Thomas. In any event, as the Purchase brothers passed, Cst. Thomas turned and tripped Timothy Purchase causing him to fall to the sidewalk.

A verbal altercation ensued which might have resulted in a fight between Cst. Thomas and Mr. Arthur Purchase. However, reason prevailed and the Purchase brothers proceeded on their way.

The Commission finds that:

(a) Cst. MacIntyre did not have reasonable grounds for forcing Mr. Timothy Purchase against the police van and ordering him to empty his pockets in the incident at the crosswalk.

(b) Because loitering was such a public issue at the time and because of the Chief of Police's instructions to be severe with loiterers, Cst. MacIntyre's actions in charging Mr. Timothy Purchase with loitering outside the Broken Cue were in keeping with departmental policy and orders.

(c) Cst. Thomas, off duty at the time, acted improperly when he tripped Mr. Timothy Purchase when they passed one another on the street. His action reflects badly on himself and on the Kentville Police Department.

The Purchase brothers were so incensed about the incident in which

Cst. Thomas tripped Mr. Timothy Purchase that they went to see the Chief of Police. They wished to lay a charge of assault against Cst. Thomas for tripping Mr. Timothy Purchase. The Chief of Police advised them that in order to lay such a charge they should seek legal advice. The matter was left there although the Purchase brothers felt that the Chief had not been helpful. The Chief of Police apparently took no action on the information he obtained from the Purchase brothers even though Cst. Thomas' action reflected badly on the Constable and hence on the Kentville Police Department.

The Commission finds that:

(a) Chief McRae acted quite properly in giving the Purchase brothers advice regarding the laying of assault charges against Cst. Thomas who was off duty at the time of the incident.

(b) The Chief of Police took no action to investigate the complaint of the Purchase brothers even though Cst. Thomas' behaviour reflected badly on himself and on the Kentville Police Force.

The Viner Testimony

Mr. Douglas Viner, a black, joined a karate club in Kentville in June 1982. One of the more senior members was Cst. Thomas. Mr. Viner testified that he felt that Cst. Thomas was unfriendly toward him. Cst. Thomas denies this stating that he treated Mr. Viner no differently than any other new member.

Mr. Viner also alleges that once on the street Cst. Thomas referred to him using the term "nigger". Cst. Thomas denies this.

In 1979, Mr. Viner visited the Chief of Police to complain of the harassment he alleged his younger brother was being subjected to by members of the Kentville Police Force. The Chief of Police requested that the brother come to see him for an interview. However, Mr. Viner reported that his brother was too frightened of some of the Kentville police officers to do that. The Chief of Police stated he offered to go to the Viner residence to interview the brother. It was agreed that Mr. Viner's younger brother had a drinking problem but Mr. Viner stated he did not consider that this could explain fully the harassment his brother experienced.

As a result of several allegations of racial slurs said to have been made by members of the Kentville Police Department, the subject of policy in dealing with racial prejudice will be dealt with later in this report.

Stephen S. Wagner Incident

Mr. Wagner began his testimony by recounting an incident in 1979 when he was attending the beer festival at the Kentville rink. When he was leaving he was struck on the face with a beer mug. He was taken to the hospital where the wound was closed with stitches. When he was leaving the hospital he conversed with a friend who happened to be there in company with Cst. Murphy who was off duty at the time. Constable Murphy offered to drive him home for which he was very grateful.

Mr. Wagner's complaint occurred when he was driving his car on his way home about 1:00 a.m. after a party. Passing through Kentville he found himself behind a car driven by a young lady whom he knew. He followed close behind the vehicle. On Cornwallis Street, just after crossing the railway tracks, Mr. Wagner pulled his car out and in passing the other car sideswiped it. He did not stop but proceeded to the residence of some people he knew. Meanwhile the other car had followed.

At the residence, Mr. Wagner knocked on the door and when the lady of the house answered, asked to use the telephone. The young lady, the driver of the other car, telephoned her parents and then the police and reported the accident.

Sgt. Young was given the report, arrived on the scene shortly thereafter, and interviewed the driver of the other car and Mr. Wagner.

Sgt. Young testified that in his opinion Mr. Wagner was intoxicated and impaired, that he read the breathalyzer demand to him, and that Mr. Wagner stated he would not provide a breath sample. Sgt. Young stated he then arrested Mr. Wagner, put him in the police car, drove to the vicinity of the police station to pick up Cst. Thomas and then to the County Lock-up.

Mr. Wagner in his testimony stated he was never given the breathalyzer demand and was not arrested before being taken to the lock-up.

There is a disturbing discrepancy between the evidence given by Sgt. Young and Cst. Thomas to this inquiry and the evidence they gave in court when Mr. Wagner came to trial. A transcript of the court proceedings was entered as an exhibit.

In evidence at the trial Sgt. Young testified that when the breathalyzer demand was read to Mr. Wagner at the scene of the accident, he was very belligerent and argumentative, would not co-operate, and refused to give an answer. Sgt. Young then proceeded with Mr. Wagner to the police station where Cst. Thomas joined them. Both Sgt. Young and Cst. Thomas testified that the breathalyzer demand was read and that after some argument Mr. Wagner refused to give a breath sample. At that point Sgt. Young issued Mr. Wagner with an Appearance Notice and Mr. Wagner threw it on the office floor. Mr. Wagner was then taken to the lock-up.

Mr. Wagner, in his evidence at the trial, testified that he did not remember being taken into the police station; in fact, he stated that the day after the incident when he was telephoned to make out an accident report at the police station, he had to ask how to get there. He maintained that he was driven from the scene of the accident to the lock-up and that the police car was stopped on the way to pick up Cst. Thomas.

Before the inquiry, both Sgt. Young and Cst. Thomas testified that Mr. Wagner was taken from the scene to the lock-up with a stop on the way in the vicinity of the police station to pick up Cst. Thomas. Cst. Thomas denied that the breathalyzer demand was read to Mr. Wagner in his presence. Both police officers testified that Sgt. Young served Mr. Wagner with an Appearance Notice at the County Jail and that Mr. Wagner threw it on the floor of the lock-up.

The Appearance Notice was entered as an exhibit. It has a notation on the back that it was thrown on the floor but it does not identify whether it was the floor of the lock-up or of the office at the police station.

Although more than three years passed between the incident and the trial, and the public inquiry, it is puzzling that the evidence given by the police officers of the procedure used by the police in dealing with Mr. Wagner should be so inconsistent.

At the County Lock-up, both Sgt. Young and Cst. Thomas testified that, in the admitting office, Mr. Wagner was asked to place the contents of his pockets on the counter. Having done that, they testified that Mr. Wagner proceeded to take off all of his clothing, including a sling supporting his right arm and a brace which was assisting with the healing of a broken right collar bone. The officers stated that he removed the brace by pulling it over his head. However, the jailer was uneasy at the prospect of having a man with such an injury in his jail and he, therefore, asked that Mr. Wagner be removed from the jail. The officers testified that Mr. Wagner dressed himself but could not put the brace back on by himself and was unwilling to have anyone help him, so, the brace was draped over his shoulder.

On the other hand, Mr. Wagner testified that he was strip searched by Cst. Thomas. He was ordered to empty his pockets which he did. He testified he was then admitted to a cell and ordered to remove all his clothing which he did down to the brace supporting his collar bone. After telling the police that he could not remove it, he stated that Cst. Thomas went behind him and undid and removed the brace. About 10 - 20 minutes later he was ordered to dress himself and according to Mr. Wagner, Cst. Thomas buckled his brace back on.

Sgt. Young and Cst. Thomas took Mr. Wagner to his parents' home in a police car, informed the lady who answered the door, his sister, that he had had an automobile accident and would be charged with refusing the breathalyzer.

The lady driving the other car, Sgt. Young and Cst. Thomas all testified to the fact that it was obvious to them that Mr. Wagner had been drinking and that he was unsteady on his feet. It is therefore probable that he does not remember everything that went on that night.

The Commission finds that:

(a) Sgt. Young read the breathalyzer demand to Mr. Wagner at the location where the cars involved in the accident were parked, that Mr. Wagner refused to give a breath sample, and that Mr. Wagner was then placed under arrest.

(b) It was disturbing that the testimony given by Sgt. Young and Cst. Thomas before this Inquiry differed so markedly to the evidence given before the Court.

(c) Mr. Wagner was subjected to a strip search at the County Lock-up and that this strip search was ordered by the jailer. This matter will be addressed later in the report in a section on strip searches.

David Schofield Incident

David Schofield, the leader of a band, complained about an incident that occurred in 1979 while he and other members of a band were loading their equipment into their vehicle. Two police officers were attracted to the scene because of the loud noises being made by the gathering. It was about 2:30 a.m. Mr. Schofield admitted that he had been drinking heavily but he did not think he was drunk. The evidence is that Mr. Schofield approached one of the constables, commented on his youthful appearance and his shiny boots and inquired whether he was a "part-time cop".

Mr. Schofield alleges that while he was bent over making comments about the constable's boots, he was struck on the forehead with an object he described as a billy club. This stunned him.

Another member of the band, Mr. Patrick Patterson, gave evidence that he did not see any blow but "heard a bit of a commotion" and saw Mr. Schofield stagger as though he had been struck. Mr. Patterson went over to the constable and inquired as to the problem and stated he was told that Mr. Schofield might end up in the lock-up. After some discussion with one or both of the constables, Mr. Patterson stated he was given the option that if he could get Mr. Schofield and at least one other member of the band Mr. Wade Calnek into their vehicle and keep them reasonably quiet all would be well. However, just before Mr. Schofield was about to get into the vehicle, he turned and made a further loud comment to the police officers. Mr. Patterson stated that at this point, Mr. Schofield was grabbed and put into the police van.

Mr. Patterson testified that at this point he suggested to Mr. Wade Calnek and one other member of the band that they had better come with him to the nearby parking lot and get into their car. As they were walking toward the car, the police van began moving off and Mr. Wade Calnek shouted at the departing van. The driver did a U-turn, came to where they were, and the two constables seized Mr. Calnek and put him in the police van.

According to Mr. Patterson no words were exchanged during this action.

From the Summary Offence ticket and the lock-up records the two constables on duty that night were Csts. Murphy and MacIntyre. The latter had been on the Kentville Police Department for one month. Both Constables testified that they had no recollection whatsoever of the events of the night in question over 4 years ago. Cst. Murphy testified that he has never in his 11 years as a police officer worn or used a night stick. Cst. MacIntyre testified that he wears a night stick about one half the time he is on duty but was very vehement that he has never struck anyone with his night stick.

On his release from the lock-up later the same morning, Mr. Schofield went to the outpatient department of the Wolfville Hospital and was examined by Dr. Phillips who diagnosed that Mr. Schofield had suffered a head injury and ordered a skull x-ray.

From the evidence of Mr. Schofield and Mr. Patterson and the medical report of Dr. Phillips, the Commission concludes that Mr. Schofield was hit on the head with an object such as a night stick or a flashlight by one of the police officers.

At the lock-up Mr. Schofield testified that he was ordered to empty his pockets and to remove his clothing down to his underwear shorts. He was then placed in a police cell where he remained until morning. Mr. Schofield also testified that Mr. Calnek was ordered to do the same thing and was also locked in his cell wearing only his underwear shorts.

The Commission finds that:

(a) Either Cst. Murphy or Cst. MacIntyre struck Mr. Schofield on the head with some object heavy enough to cause mild concussion, thereby committing an assault.

(b) Mr. Schofield and Mr. Calnek should not have been strip searched and locked up in their underwear.

Dean F. O'Neill Incident

The facts of the incident are that in the spring of 1979 Dean O'Neill and an accomplice had broken into a building in the vicinity of the Law Courts and were leaving when they were spotted by Cst. Murphy who was on foot patrol checking doors. Cst. Murphy gave chase and caught up with Mr. O'Neill. The accomplice escaped.

Cst. Murphy had been in communication with Cst. Thomas in the police van which was now nearby. Cst. Thomas came to assist Cst. Murphy.

The evidence of the Constables and Mr. O'Neill diverge here. Mr. O'Neill alleged that when he would not tell them the name of his accomplice, Cst. Murphy took one arm and Cst. Thomas the other, pulled them straight out whereupon Cst. Thomas kicked Mr. O'Neill in the ribs three or four times. Mr. O'Neill testified that the kicks hurt but left no marks or lasting pain. Both Cst. Thomas and Cst. Murphy testified that when Cst. Thomas arrived Mr. O'Neill was turned over to him while Cst. Murphy went off to have another search for the accomplice. In the meantime Cst. Thomas searched Mr. O'Neill. When Cst. Murphy returned Mr. O'Neill was placed in the van. The two Constables examined the building from which the two suspects ran but could find no evidence of a break and enter.

Mr. O'Neill was released with the admonition that if a break and enter was reported the next morning they would want to see him again.

The next day Mr. O'Neill went to Bridgwater and a break and enter was reported by the occupant of the building. About two days later Mr. O'Neill was apprehended in Bridgewater. Cst. Murphy went to Bridgewater, interviewed Mr. O'Neill in a room at the Bridgewater Police Station and Mr. O'Neill gave and signed a confession of break and enter.

Mr. O'Neill alleges that he was not given the police warning and was threatened into giving a confession. On the other hand Cst. Murphy stated he was given the police warning and that after he had explained bluntly to Mr. O'Neill how unhappy he was to have to come all the way to Bridgewater at night, Mr. O'Neill readily confessed.

Mr. O'Neill was subsequently tried, convicted and sentenced to 14 months in the Correctional Centre.

The Commission finds that:

(a) The weight of evidence before it is that the Constables did not mistreat Mr. O'Neill when he was apprehended originally.

(b) Cst. Murphy spoke roughly to Mr. O'Neill in Bridgewater but the Court ruled that the confession which followed was given voluntarily.

Wayne Vaughan Incident

Mr. Vaughan testified that on May 16, 1981, he spent the afternoon making a series of visits. On two occasions he had one or two bottles of beer. During the evening he continued drinking beer and when he finally finished about 11:30 p.m., by his own admission, he was intoxicated and impaired.

He began to drive out of Kentville toward New Minas and had not gone far when he realized the Town Police were following him. When they turned on their roof lights, Mr. Vaughan panicked, increased speed, passed several cars dangerously and eventually turned off the highway onto what turned out to be a dead-end street. It was raining hard. He stopped his car in the turn-around area at the end of the street. The police car pulled up in a position to block the exit from the turn-around area.

Cst. Murphy, the driver of the police car, jumped out and went to the driver's side of the car. Sgt. Young, who was with him, went to the opposite side.

The evidence given by these officers on the sequence of events which followed differs markedly from that given by Mr. Vaughan.

Mr. Vaughan gave evidence that Cst. Murphy opened the door of his car and ordered him to get out. Mr. Vaughan then stated that he made a smart remark to the Constable who thereupon struck him in the stomach with a billy club and at the same time Sgt. Young hit him on the face with his fist. Mr. Vaughan stated that he was then taken to the County Lock-up and locked up overnight. Mr. Vaughan was subsequently convicted of dangerous driving and refusal of the breathalyzer.

Cst. Murphy testified that when he reached the side of Mr. Vaughan's car he placed his right hand on the edge of the car roof and with his left hand opened the car door. He got the door opened slightly when Mr. Vaughan slammed it shut catching one of the fingers of the Constable's right hand. Cst. Murphy then used force to pull the door open and grabbed Mr. Vaughan who then jumped out and attacked the Constable. They both had arms around each other. During the struggle several buttons were torn from the Constable's shirt and Mr. Vaughan's shirt was torn. When Mr. Vaughan appeared to be about to strike him, Cst. Murphy testified that he struck Mr. Vaughan in the face with his fist.

At this time he broke Mr. Vaughan's hold and pushed him in the direction of Sgt. Young who was 4 or 5 feet away. Cst. Murphy testified that Sgt. Young pushed Mr. Vaughan away from him and Mr. Vaughan fell on the pavement on his face.

Cst. Murphy testified that he and Sgt. Young helped Mr. Vaughan to his feet, took him to the police car and drove him to the County Lock-up. Cst. Murphy held up a finger of his right hand showing a scar he claimed was the result of his finger having been jammed in the Vaughan car door.

Sgt. Young's testimony corroborated Cst. Murphy's testimony although he stated he was coming around the car when Cst. Murphy was struggling with

Mr. Vaughan and did not see Cst. Murphy strike Mr. Vaughan.

Both Sgt. Young and Cst. Murphy testified that neither of them has ever worn nor used a billy club nor night stick during their careers as police officers.

Mr. Vaughan by his own admission consumed 10 or 11 beers during the afternoon and evening of that day. Sgt. Young and Cst. Murphy testified that Mr. Vaughan was driving his car erratically and this drew their attention to him in the first instance. Because of his intoxicated condition, the evidence he gave of the confrontation with the police officers is suspect.

The Commission finds that:

(a) The evidence given by Cst. Murphy and Sgt. Young comes closer to describing the events which followed when Mr. Vaughan came out of his car than does the evidence of Mr. Vaughan.

(b) Cst. Murphy and Sgt. Young used no more force than was necessary in arresting Mr. Vaughan.

James Bent Incident

On March 26, 1982, the Assistant Director for Works for the Town of Kentville, Mr. Pothier, had occasion to suspect that Mr. James Bent of the Works Department had been drinking during his lunch break to the point where he was intoxicated. Mr. Pothier gave Mr. Bent an option either to be driven to the hospital to give a blood sample or to take a breathalyzer test. Mr. Bent agreed to take a breathalyzer test.

Cst. Morrison was asked by radio to go to the Works Department. Mr. Pothier asked Cst. Morrison, a breathalyzer technician, if he would give

Mr. Bent a breathalyzer test. After learning that Mr. Bent had not been driving a vehicle, Cst. Morrison testified that he did not think it would be right to give Mr. Bent a breath test and told Mr. Pothier that he would not conduct a breathalyzer test on Mr. Bent. Mr. Hardy came into the Works office and Cst. Morrison repeated his refusal to give the test again.

Cst. Morrison, Mr. Hardy, Mr. Pothier and Mr. Bent then went downstairs to the police offices where Cpl. Campbell, another breathalyzer technician, was asked if he would do the test. Cst. Murphy, another technician, was also there. There was a delay while Mr. Bent met with his shop steward. During that time the three police officers conferred and came to the conclusion that, because there was no allegation of driving a vehicle while impaired, it would be improper for them to give Mr. Bent a breathalyzer test. In the event a test was not given.

The Commission finds that:

The police officers were justified in refusing to give Mr. Bent a breathalyzer test.

Bishop Incident

The Inquiry heard evidence about an incident involving a complaint of Mrs. Eileen Bishop. The matter concerned a traffic citation received by Mrs. Bishop, allegedly from Cst. Murphy and Cst. Kennedy.

In or about the summer of 1982, it was decided that new traffic signs would be erected prohibiting entry onto Main Street from the Cornwallis Inn. The signs were approved by the Provincial Traffic Authority and duly installed. A generous grace period of some months was allowed to enable the citizens to familiarize themselves with this traffic change. During this period warnings rather than citations were given by the Town Police.

In March 1983, Mrs. Eileen Bishop wrote Mayor Phinney to express her irritation about the manner in which she was charged for improperly exiting from the Cornwallis Inn. Mrs. Bishop felt that the officers in question could have properly exercised their discretion rather than laying charges. Mrs. Bishop was fined $28.00.

Mayor Phinney acknowledged the letter of Mrs. Bishop and then proceeded to write to the Board of Police Commissioners. The Mayor expressed considerable criticism against the officers involved. In particular, Mayor Phinney stated that "I have contacted Mrs. Bishop and explained that the senior constable has been noted for lack of judgment in the past and evidently again has not practiced common sense and compassion".

Evidence before the Inquiry was that the traffic citation was issued by Cst. Kennedy and that Cst. Murphy, although on duty, was not involved.

The Board of Police Commissioners dealt with the matter at one of their regular meetings and wrote the Mayor. The Board was pointed in its criticism of the Mayor for failing to follow the proper procedure and for directly criticizing a member of the Police Force.

The Commission finds that:

(a) Mayor Phinney directly interfered with the proper role of the Board of Police Commissioners in dealing with a citizen complaint.

(b) The Board of Police Commissioners must be allowed to operate within its powers, free from all outside interference.

Arenburg Incident

The Inquiry heard evidence relating to a neighbourhood conflict involving the Arenburg's and the Day's. There had been difficulties over the Day's dog continually barking next door to the Arenburg's home. It reached the point that Mr. Arenburg was alleged to have called Mrs. Day and threatened to kill her dog if it didn't stop barking. Cst. Morrison investigated and through discussions with Mr. Jack Buntain, the Crown Prosecutor, charges of threatening were laid against Mr. Arenburg. A not guilty plea was entered and the matter was sent on for trial.

Mayor Phinney was approached by Mrs. Arenburg who expressed her concern over the constant barking and the entire situation. Shortly thereafter, Mrs. Arenburg, the Mayor and the Chief met. The Mayor asked Chief McRae if there was anything that could be done about the situation. At this suggestion, Chief McRae indicated that he would approach Mrs. Day and "see if we could arrange to have the dog kept inside or quiet during the day". Chief McRae did meet with Mrs. Day and through his conversation it appeared that the problem had dissipated and she didn't want to get into a disagreement with her neighbour. Mrs. Day also indicated that she was not too interested in pursuing the matter. Chief McRae apparently suggested that Mrs. Day should then contact Mr. Buntain to indicate that she was not interested in pursuing the matter. Mrs. Day did contact Mr. Buntain and the matter was withdrawn.

There was some discrepancy in the testimony of Mr. Buntain and Chief McRae. Mr. Buntain's evidence was that Chief McRae contacted him and instructed him to drop the charges. Chief McRae denies this statement.

The Commission finds that:

(a) There was no interference by Mayor Phinney in the proper administration of justice nor was there an attempt by Mayor Phinney to have Chief McRae place any undue pressure on Mrs. Day in an effort to convince her to drop criminal charges against Mr. Arenburg.

(b) There was no fault in the actions of Mayor Phinney or Chief McRae in this matter. However, it would have been desirable to have involved the investigating officer, Cst. Morrison, in the discussions.

Probationary Constable Kenneth A. Turner

Cst. Turner is no longer with the Kentville Police Department. The issue before the Inquiry is whether the Chief of Police and other members acted responsibly in dealing with Cst. Turner's termination of services.

Mr. Kenneth Turner was engaged as a probationary constable on February 1, 1979, in accordance with a collective agreement, for a term of one year.

On January 10, 1980, Cst. Turner was given leave of absence by Chief McRae to go on vacation for an extended period which would carry over to February 3, after the probation period had lapsed on February 1, 1980. Cst. Turner left for his vacation on the morning of January 14, 1980, and could not be reached by the Board to be served with a notice of termination of services with the Kentville Police Department by February 1, 1980.

The following are some of the significant dates pertinent to the Chief's handling of affairs related to Cst. Turner's vacation leave.

On December 21, 1979, the Chief received the official report from Cpl. Meisner of the Halifax Police Department further to his investigation into the Lars Nichols complaint that he was assaulted by Cst. Turner and Cst. David Moore.

About December 27, 1979, Mr. Lowe, the Chairman of the Board, informed the Chief that he had seen a signed affidavit of another complaint concerning Cst. Turner's activities. Mr. Lowe would not disclose any information about the complaint.

The Chief states that on January 4, 1980, he received a letter from the Crown Prosecutor instructing that charges of assault causing bodily harm under Section 245(b) or 2(b) of the Criminal Code be laid by the Chief against the two constables involved in the Lars Nichols incident. The Chief states that he did not feel that this would be proper as he did not believe that an assault took place and he so advised the Crown Prosecutor and Mr. Gale of the Attorney General's Department. The Chief also stated that he contacted Mr. Levy, lawyer for the complainant.

When the Chief was asked, "Did not the fact that the Crown Prosecutor had instructed you by letter of January 4, 1980, to be an informant and lay charges against Cst. Turner indicate a signal to you that his employment might not be confirmed?", the Chief replied, "No".

When asked whether he knew that Cst. Turner could return from his vacation a second class constable rather than a probationary constable, the Chief replied, "I suppose I did".

On January 7, 1980, the Form 9 was sent out by the Chief further to the Lars Nichols complaint as required under Section 54 of the Regulations under the Police Act. The Chief's decision was to take no further action against the members.

On January 7, 1980, the Chief wrote a letter to the Chairman of the Board concerning Cst. Turner which states, inter alia, "Cst. Turner has shown that he is a very capable officer and can only improve with additional service. He is the subject of a complaint by Mr. David Lars Nichols of assault which is presently under investigation".

The Chief referred to Cpl. Meisner's report which concluded, "after careful consideration of the allegations and denials described above, I am unable to conclude that any physical force was used during the arrest of Lars Nichols".

The final paragraph of the Chief's letter reads: "In view of the foregoing, I would suggest that Cst. Turner's term of probation be extended until these matters have been dealt with and a determination made as to his guilt or innocense in these matters before recommendations are made concerning probational service."

The following is an excerpt from the Minutes of the Board meeting on January 7, 1980, attended by the Chief, as given in evidence by Mr. Hardy: "Whereas the probationary period for Cst. Turner expires on February 1, 1980, it was agreed that a special meeting of the Commissioners would be convened prior to the end of the month to consider this matter, and this in turn would require a special meeting of Council to deal with the Commission's recommendations." Mr. Hardy testified that, at this meeting on January 7, one particular member had heard certain allegations and he wanted to do some further checking before he, as a member of the Board, would deal with it. The decision was then postponed.

It was also agreed at the meeting that the Chief, the Chairman of the Board, and Mr. Hardy would have a special meeting on January 14, 1980, to discuss the Cst. Turner situation.

On January 10, 1980, the Chief authorized the leave of absence for Cst. Turner for the period January 14 until February 3, 1980.

The Chief acknowledged that he gave Cst. Turner 'extra time off' because he would be required to come back at 3:00 o'clock in the morning of his first night shift. The Chief stated that the extra time off was something discretionary that he gave Cst. Turner. He says that he knew at that time that Cst. Turner's probationary contract expired on February 1, 1980.

The Chief further acknowledged that he did not give Cst. Turner a memo or anything in writing concerning his leave, confirming it. It was not the normal practice by the Chief at that time.

The Chief was questioned concerning obtaining a forwarding address from Cst. Turner as he was going on leave, a phone number, or some idea where the Constable was going to be. The Chief admitted that, "at the time", he did not get such information. When asked why he didn't get it, the Chief explained, "There is no requirement under the contractual agreement to do that, nothing in the regulations". When Commission Counsel asked the Chief how he would get a man back for an emergency, the Chief replied: "You just don't get them back. I have not got time to concern myself with all those eventualities".

On January 14, 1980, the Chief told the Chairman of the Board and the Secretary that Cst. Turner left on his vacation that morning and could not be reached and would not be available for service of the letter of non-confirmation as constable if that was to be the decision of Town Council.

On January 15, 1980, Kentville Town Council met in special session and approved, "that a recommendation of the Board of Police Commissioners be accepted whereby the services of Cst. K.A. Turner be terminated as of January 31, 1980".

A registered letter dated January 16, 1980, informing Cst. Turner that he would not be confirmed was received by his landlady on January 17, 1980. Cst. Turner apparently opened the registered letter on February 3, 1980, two days after the probation period had expired.

Cst. Turner's testimony before the Inquiry was unconvincing and the Commission did not believe him when he stated, "I can't recall knowing that my probationary period was coming to an end (when I was) on vacation".

Cst. Turner testified that although he met with his partner, Cst. Dave Moore, in Moncton while he was on vacation, that neither Cst. Moore or anyone else had told him that he had been dismissed from the Force. He also testified that he did not read it or hear about it before he returned from vacation despite the fact that this was a matter of considerable publicity and discussion among the constables and in the press.

Cst. Cooper gave evidence that about the time of Cst. Turner's completion of employment with the Town of Kentville, he attended a union meeting of the Kentville Police Association at which Sgt. Young, Cst. Murphy, Cst. Reade, Cst. Morrison were present. Cst. Cooper said he was told at the meeting that union representatives had gone to Halifax to get assistance, to tell the head of the union that Cst. Turner was going to be released and asked for his advice. Cst. Cooper said they mentioned that Joe Ross had advised that Cst. Turner should be put on vacation. Cst. Murphy was asked about the union meeting in question. He said: "We argued over something", and felt that Cst. Cooper was a little mixed up on that, but Cst. Murphy didn't deny it either. Cst. Reade did not deny Cst. Cooper's statement of the discussion at the union meeting regarding Cst. Turner. He didn't recall it, but he didn't deny it.

Sgt. Young recalled being present at a union meeting when the subject of Cst. Turner came up. He stated that Csts. Reade and Murphy were going to Halifax to talk about Cst. Turner and his vacation.

The Commission finds that:

(a) **Chief McRae, on January 10, 1980, had good reason to believe that Cst. Turner would not be hired as constable second class.**

(b) **Chief McRae was neglectful of his duty in allowing a probationary constable to go on an extended leave of absence for vacation without ensuring that he could be reached by phone or mail, if required, before the probationary period was completed.**

(c) **Chief McRae showed arrogant disregard for the Board in giving Cst. Turner an extended leave of absence, at his own discretion, on January 10, 1980, three days after attending a meeting with the Chairman and the Secretary of the Board on January 7, at which a further meeting with the Chief was set for January 14 to deal with the Cst. Turner probation.**

(d) **The Commission finds that Chief McRae and Cst. Turner were aware**

of the possibility that Cst. Turner's services would be terminated and that Chief McRae acquiesced in arrangements for Cst. Turner to be absent beyond the probationary period which terminated on February 1, 1980.

(e) Chief McRae was aware that Cst. Turner's extended vacation would go beyond the end of the probationary period of one year which was February 1, 1980.

(f) Several of the constables who testified concerning Cst. Turner's vacation leave were evasive and less than forthright. When it is remembered that the credibility of police constables must be maintained at all times, it is disappointing, indeed incredible, that so much of the testimony given by those who were involved was marked by remarkable lapses of memory. This does not do the reputation of the police force any good and is critically regarded by the Commission.

(g) The Town Council and the Board of Police Commissioners should not have used a citizen complaint in their possession as part of the basis of their decision to terminate Cst. Turner's services without giving the Constable an opportunity to defend his actions. This was not fair to the Constable.

Probationary Constable John T. Kennedy

Mr. John Kennedy began his employment as a probationary constable with the Kentville Police Department on May 3, 1982. He resigned on April 22, 1983, for personal reasons shortly before his probationary period would have terminated on May 3, 1983. The issue to be dealt with is whether the Chief of Police acted responsibly in handling this matter.

As a probationary constable John Kennedy showed himself to be eager and willing to work. He came fifth in his class at the Atlantic Police Academy. He was held in favourable regard by the Chief of Police and Cst.

Murphy. There is evidence that some of the other officers were not anxious to see him become a permanent member of the Force mainly because of his methods of operation.

The first assessment of Cst. Kennedy was for the first six months of his probation and was completed by Cpl. Campbell and Chief McRae. Cst. Kennedy had worked the first two months with Cpl. Campbell and four months with Cst. Cooper. Cpl. Campbell had suggested that Cst. Kennedy should keep a notebook of his activities in order to protect himself. The details of the notebook and the matters covered in this record gave it something of an appearance of a dairy. It was obvious that he seemed to go overboard in this respect.

Cst. Cooper had no input into this assessment, although he worked the last four months of the first six month term with Cst. Kennedy. The Commission considers this to be a poor procedure.

The next assessment was made by Cst. Murphy and the Chief of Police, at the request of the Chief, who by-passed the senior N.C.O., Sgt. Young, explaining that Cst. Murphy was asked to make the assessment because he had worked with Cst. Kennedy. This assessment was favourable.

When this assessment came before the Board on April 11, 1983, the recommendation was that Cst. Kennedy be promoted to second class constable. It was also recommended that he be given further supervision for six months.

At this Board meeting the question was raised as to why Sgt. Young, who is responsible for initiating the Department's assessments, had not been asked to prepare the assessment on Cst. Kennedy. Chief McRae did not raise any objection when the Board gave instructions that Sgt. Young was to make a further assessment. The Chief stated that he did not feel that the Sergeant was a suitable person to carry out the assessment and the reason that he did not express this to the Board was that, "from the attitude of the Board ... they had already made their decision and this was the evaluation they wanted". The Commission does not accept this explanation as satisfactory.

When Chief McRae was asked why he instructed Sgt. Young "not to discuss the matter (the assessment) with Cst. Kennedy or show it to him", he replied "the man had just gone through an evaluation process a week or so before that, I had no idea what Sgt. Young's evaluation would be".

If Chief McRae's statement at this point is truthful, then it is fair to assume that he did not know whether Sgt. Young's assessment would be favourable or otherwise, nor could it be said whether Sgt. Young's assessment would be what the Board wanted to hear, as he suggests.

In Sgt. Young's assessment it was recommended that Cst. Kennedy be put on an additional one year's probation or dismissed. The Chief was disgusted with Sgt. Young's assessment. It was evident that Chief McRae and Sgt. Young appeared to have a problem of communicating, to put it mildly. The Chief's response, "I don't have a problem, he apparently does", was hardly persuasive.

At the next meeting of the Board on April 15, Sgt. Young's assessment of Cst. Kennedy was discussed. It was at this meeting that the Chief reversed his earlier position concerning Cst. Kennedy and recommended to the Board that he be dismissed. The Chief went on to explain that he felt he could do one of two things, either agree with what he thought the Board wanted to hear and go along with Sgt. Young's assessment, or have a confrontation with the Board. From the testimony heard by the Inquiry, it appears that the Chief's recommendation for dismissal was a determining factor in the recommendation of the Board to dismiss Cst. John Kennedy.

In not upholding his convictions and stating them at that crucial time, Chief McRae did a disservice to himself regarding his own integrity and his responsibility as the Chief of Police, to Cst. Kennedy and to the Board.

It was following his explanation in recommending that Cst. Kennedy be dismissed that Chief McRae stated, "I'd say for five years I've been dealing with the Board of Police Commissioners and during that five years there have been several confrontations concerning members of the Police Department. I'm getting tired, very tired, of fighting for something that I know damn well is right and having it thrown in my face. They refused to accept my recommendation on the 11th and yet they were quite willing to accept the recommendation on the 15th because that is what they wanted to hear."

The evidence indicated that the Board was quite correct, procedurally, in asking at the meeting on the 11th that an assessment be prepared by the senior N.C.O., which should have been done before. That appears to be one reason for refusing to act on April 11.

The Inquiry heard evidence from Cst. Kennedy, Chief McRae and Cst. Murphy concerning discussions leading up tc Cst. Kennedy's resignation. Chief McRae stated that he did not advise Cst. Kennedy to resign but stated that he would resign if he were in Cst. Kennedy's shoes. Cst. Murphy agrees with this testimony but clearly indicated that he did not agree that the Constable should resign. Cst. Kennedy had a high regard for Chief McRae's opinion and it is clear that the Chief's advice was an important factor in his decision to resign.

Cst. Kennedy said the Chief told him that there were a couple of meetings 'upstairs' concerning his probation and stated, "I guess they got a bunch of complaints against you". When Cst. Kennedy was asked if the Chief said, "They're going to fire you, there's no doubt about it", he replied "Yes".

Cst. Kennedy said the Chief said, "John is going, there wasn't one member of Town Council or Police Commission that was standing up for John. I tried but they wouldn't listen to me - they wanted John gone". When asked why he resigned from the Police Department, Cst. Kennedy replied, "I couldn't see the Chief giving me advice to resign if there was any way at all that I could keep my job".

At an informal meeting on April 15 following the formal Board meeting, it was agreed by those present, including Chief McRae, that there would be confidentiality regarding the recommendation of the Board to terminate the services of Cst. Kennedy.

Dr. Rafferty, a member of the Board, expressed the view that the Chief flip-flopped on Cst. Kennedy between April 11 and 15, and he also stated that no pressure was put on the Chief to change his position concerning his recommendation to the Board that Cst. Kennedy be dismissed.

Cst. Kennedy stated that, up to the time of the Inquiry, he had not seen the assessment which Sgt. Young had done on him. It will be remembered that the Chief had instructed Sgt. Young not to discuss the assessment with Cst. Kennedy.

The Commission finds that:

(a) The performance of the Chief of Police before the Board and with Cst. Kennedy with regard to the termination of his probationary service and his subsequent resignation was inept. Chief McRae did a disservice to himself regarding his integrity and his responsibility as the Chief of Police, to Cst. Kennedy and to the Board.

(b) The Chief of Police's handling of the assessments in by-passing Sgt. Young initially was detrimental to the efficiency of the management of the Police Department and undermined the authority and prestige of the senior N.C.O.

DRUG INVESTIGATION INCIDENT

One of the major bones of contention between the Mayor, the Council and the Board of Police Commissioners on the one hand and the Chief of Police on the other was a matter which arose during the summer of 1981.

In essence, at a Council Meeting on August 12, 1981, Councillor Buchanan raised the subject of drugs in Kentville, the complaints he had received from concerned citizens on the matter, and the need to have something done about what he perceived as an epidemic of drug use. The decision of the Council at that time was to refer the matter to the Board for one month. The discussion at the Council meeting made headlines in the Kentville Advertiser on August 19, 1981.

The Chief of Police, who was on vacation at the time of the Council meeting, was incensed by the publicity given the matter of drugs and the suggestion that the Kentville Town Police were not doing enough to cope with drugs in the Town. At meetings of the Board at the end of August the Chief of Police made intemperate remarks about Councillor Buchanan and claimed the drug situation was in hand as the Department had already approached the R.C.M.P. on the matter. He gave the impression that he had personally had dealings with a Superintendent of the R.C.M.P. in Halifax.

Subsequent inquiries by members of Council gave indications that the Chief of Police was not telling the truth and that the R.C.M.P. had not been contacted at the level the Chief claimed.

The following sequence of events on this matter is taken from the evidence and from the exhibits tendered at the Inquiry.

In late June 1981, Cst. Cooper had a discussion on the drug situation with the Chief of Police. Although it is not clear from the material before the Inquiry, it seems the Chief encouraged Cst. Cooper to see what could be done.

On July 14, on his own initiative, Cst. Cooper met with Cpl. Soucie of the New Minas R.C.M.P. at the Detachment headquarters. At this meeting he learned the type of information that would be required to substantiate a request to the Officer-in-Charge of the Criminal Investigation Branch at "H" Division Halifax for an undercover anti-drug operation.

As he was going on vacation very soon, Cst. Cooper prepared a document which he placed in the occurrence book at the police station in which all Kentville members were requested to list suspected drug traffickers and users with information on each of them. It was his intention to deal with the list on his return from vacation. At this point there was no evidence that the Chief of Police had contacted personally any member of the R.C.M.P. In fact, an impression was gained from several witnesses and exhibits before the Inquiry that the NCO-in-Charge of the New Minas R.C.M.P. Detachment and Chief McRae were not on speaking terms. The only method of communication was occasionally by letter.

While both Cst. Cooper and the Chief were on vacation Councillor Buchanan raised the subject of drugs at the Council meeting and the headline article appeared in the Advertiser.

When he returned from vacation on August 24th, Cst. Cooper prepared a letter for the Chief's signature to Cpl. Soucie which requested a long-term drug operation and enclosed the information that had been compiled in the document which Cst. Cooper had placed in the occurrence book.

S/Sgt. Fraser, the NCO-in-Charge of the New Minas R.C.M.P. Detachment, replied by letter on August 25th requesting further statistical information and stating that a short-term operation was contemplated. Chief McRae responded by letter to the request for further information on August 27th. At no time did the two meet to discuss the situation. There was no further exchange of correspondence.

S/Sgt. Fraser stated that planning for an undercover operation in Kings County, including Kentville, was not proceeded with because of the press of other duties.

Meanwhile on August 26th Chief McRae had written to the Chairman of the Board protesting Councillor Buchanan's statements at the Council meeting.

The Board of Police Commissioners met on August 31st. At this meeting the Chief severely criticized Councillor Buchanan and stated that the Councillor was spreading alarm on the basis of rumours and not facts. According to several Board members and the Secretary to the Board, at this meeting the Chief of Police stated that he had been in touch with a Superintendent of the R.C.M.P. in "H" Division three months earlier and had made arrangements for their assistance in coming to Kentville to assist in drug operations. The Chief also stated that Councillor Buchanan's remarks and the subsequent publicity had destroyed all his efforts to have the R.C.M.P. provide assistance. The Chief denies that he made the statement on his contact with the R.C.M.P., but it is recorded in the minutes of that meeting.

A Committee of the Whole of Council took place on September 15, 1981. At that meeting the Chief sat next to Councillor Buchanan and upon sitting down waved a copy of the Advertiser of August 19th in front of the Councillor's nose and criticized the Councillor's comments contained in the paper. The Chief stated that the Councillor's remarks had "destroyed about six months of damn hard work". He further stated that information had been gathered for the R.C.M.P. but the drug problem had been driven underground and he thought the chances of getting R.C.M.P. help were now slim.

He further stated, according to the minutes of the meeting, that he had again been in touch with the R.C.M.P. and that they are satisfied with the information provided them by the Kentville Police. All levels in the R.C.M.P. deny they had any verbal communication with Chief McRae on the subject of drugs and the last letter between the Chief and the

R.C.M.P. was on August 27th.

It is interesting to note that in a signed statement Cpl. Soucie, R.C.M.P., in answer to a question on the adequacy of the information obtained from Kentville stated, "Not as far as I am concerned as to what we might have to prepare to put on paper for such a request." Likewise S/Sgt. Fraser, R.C.M.P., the NCO-in-Charge of the Detachment was asked whether the article in the Advertiser would affect a drug operation and stated, "Personally, I don't think it would affect it one way or another. It had nothing to do with an undercover operation. It didn't mention anything about that. It just said there was a problem as I understand it."

At the meeting the Chief stated that he was asked who would authorize an undercover operation and that he replied that it would be Superintendent Bungay, the O.C. of Halifax Sub-Division. When asked whether he had been contacted, he replied that he had been through the local detachment. On the other hand, the Mayor and other Councillors stated that their recollection of the meeting is that the Chief stated he had personally contacted Superintendent Bungay several months previously. Superintendent Bungay denies that he was ever contacted by Chief McRae on drug matters in the Town of Kentville nor was Supt. Bungay aware of the request by Kentville dated August 25, 1981, for a drug operation until sometime later.

A meeting of the Committee of the Whole of Council was convened on September 16th at which the Chief of Police was not present. The minutes of that meeting record that "Councillor Buchanan stated he believes that no letter was sent to the R.C.M.P., New Minas, until after he had brought the drug matter up at the Council meeting on August 12, 1981." He went on to state that he believes the Chief is lying and that he never made any contact with the Superintendent of the R.C.M.P. "H" Division and requested that "contact be made with the R.C.M.P. to determine whether the Chief was telling the truth or not." The meeting agreed that this should be done.

Three or four days later the then Attorney General, the Honourable Harry How, was in the Mayor's office on another matter and the Mayor raised the subject of the controversy over drugs. The Mayor stated that the Attorney General telephoned his Deputy from the Mayor's office and asked him to find out whether the R.C.M.P. had been contacted by Chief McRae. The Mayor stated that some time later the Deputy Attorney General telephoned to tell him "that the R.C.M.P. had never been contacted and they had no knowledge that anyone in Kentville was requesting their services."

Meanwhile, on October 30th, the Mayor and Deputy Mayor, who was also Vice Chairman of the Board of Police Commissioners, met with the Chief of Police. Both recalled that the Chief stated that "it was Supt. Bungay with the "H" Division R.C.M.P. that he contacted several months prior to Councillor Buchanan raising the concern at Council in August." In his testimony at the Inquiry, when asked whether he had mentioned to Council or the Board that he had personal contact with Supt. Bungay at any time, the Chief stated, "No, I did not."

In November, two delegations from the town met with the Attorney General and his Deputy to discuss this matter and finally on December 15, 1981, the Town Administrator wrote to the Attorney General, as had been agreed, setting forth an overview of the matter and requesting signed statements from R.C.M.P. officers who might have been contacted by the Chief.

This material was forwarded to Kentville on January 13, 1982, and the following are important extracts from the documents:

(a) Supt. D. F. Christen stated, "Chief McRae has not contacted me in my capacity as CIB Officer for "H" Division seeking my co-operation or assistance in dealing with any drug problem which he may be experiencing in Kentville."

(b) Supt. C.A.J. Bungay, O.C. of Halifax Sub-Division, stated that "At the outset I wish to make it perfectly clear that there has been absolutely no contact between Chief A. K. McRae and myself regarding drug enforcement in the Town of Kentville."

(c) Supt. Bungay also stated that, "It should be noted that the relatively few prosecutions obtained by the Kentville Town Police would hardly justify an undercover operation and certainly the information provided by Chief McRae would not support a request for such an operation."

(d) S/Sgt. Fraser, NCO in charge of New Minas Detachment of the Halifax Sub-Division, stated that "After perusing this (Chief McRae's letter of August 27, 1981) it was felt that either they did not have a problem or if they did, they are taking very little action themselves to curb it." and, "we had intended to request a short-term operation last fall (1981) but due to numerous other investigations this was not possible."

On February 2, 1982, the Mayor, the Deputy Mayor and the Chairman of the Board of Police Commissioners met with Chief McRae and confronted him with the information they had received via the Attorney General's Department. He was told that they considered he had lied to them about his contacts with the R.C.M.P. and that they considered an appropriate step on his part would be to offer his resignation. A heated discussion followed. On the subject of whether it is the Chief of Police's responsibility to report what investigations are being undertaken to the Board; both the Mayor and Deputy Mayor gave evidence that the Chief stated that, "he had not been asleep for the past three years and that there's two investigations going on about, to do with members of Council."

The Chief was given 48 hours to think about the whole matter.

The same persons met again on February 4th. At this meeting the Chief stated that he did not intend to resign and that he suggested that if they wished to discipline him they should follow the procedures set forth in the Police Act and Regulations under that Act. The Chief again raised the subject of the investigations involving members of Council stating that he may have spoken too strongly because he was upset at the first meeting. He did not want his statement to be construed as a threat. However, he did go on to state that two investigations were continuing and were concerned with one possible charge of indecent assault and another on the making of obscene telephone calls.

The matter of these investigations resulted in "in camera" hearings and the conclusions from them are dealt with elsewhere in this report.

On February 25, 1982, at a meeting of the Board of Police Commissioners it was decided to appoint an investigator on the drug problem matter. That same day, the Chairman wrote to Chief McRae informing him that it was the intention of the Board to investigate the matter in accordance with subsections 50(1)(b) and (c) of the Regulations under the Police Act. A solicitor from Bridgetown was appointed by the Board to conduct the investigation into the alleged disciplinary defaults of the Chief of Police.

On March 11, 1982, the solicitor served a Form 2 under the Regulations made under the Police Act which alleged that the Chief of Police had, "committed a disciplinary default under the Code by deceiving the Board of Police Commissioners of the Town and subsequently the Town Council concerning the extent of preparations taken by you or under your direction to remedy a perceived problem in narcotics under the Narcotic Control Act, and further deceived the Board and Council concerning the effects of criticisms or suggestions by members of Council on these preparations, and further that the deceit was intentional, designed to protect you from criticism and to impair the credibility of critics of you, and also that by intemperate attacks on your critics you acted in a manner reasonably likely to bring discredit on the reputation of the Police Force or were discourteous or uncivil, the foregoing being matters covered under Articles 1, 4, and 7 of the Code of Discipline."

The solicitor completed his report and briefed a combined meeting of the Town Council and the Board on June 21, 1982. After that meeting, because the statute of limitations established in Section 32 of the Regulations made under the Police Act that: "No proceedings for an alleged disciplinary default under the code shall be commenced more than 6 months after the occurrence of the disciplinary default, or more than 3 months after the discovery, by the Chief of Police or his delegate, that an alleged disciplinary default has occurred, whichever is the shorter" had expired, it was decided that disciplinary default proceedings could not be pursued. However, the whole matter continued to be contentious. It was evident to the Commission that feelings were still running very deep at the time of the Inquiry hearings.

The Commission finds that:

(a) The Chief of Police deliberately misled the Board and the Council on the contacts he and his officers had with the RCMP on the drug matter and sought to give the impression that more preliminary work had been undertaken than had actually been done.

(b) The Chief of Police showed extremely poor and unprofessional judgment in his intemperate attacks on Councillor Buchanan on the remarks that the Councillor made to Town Council on August 12, 1981, which resulted in the headline article in the Kentville Advertiser on August 19, 1981.

(c) The manner in which the Chief of Police handled this matter is a most flagrant example of the measures to which the Chief of Police would go to defend himself.

SUPPLEMENT TO THE DRUG INVESTIGATION INCIDENT

Chief McRae stated that on February 9, 1982, he went to Bridgewater for discussions with Chief McGinnis on a forthcoming meeting of the Nova Scotia Chiefs of Police Association. When Chief McRae arrived in Bridgewater, Chief McGinnis was having a discussion with Cpl. Grant, R.C.M.P., the head of the Bridgewater Detachment Drug Section.

According to Chief McRae, they were discussing a drug course proposed by the Atlantic Police Academy which was of particular interest to him and his Board because of the drug controversy in Kentville. He claims that he entered fully into the discussions of the course and was present when Cpl. Grant made an offer to put on a one-day practical course on drugs for both the Bridgewater and Kentville Police Departments in Bridgewater.

Chief McRae reported this to his Board on March 8, 1982, and received encouragement to pursue the matter further.

At the Board meeting on April 12, 1982, the Chief reported that one of the Department's vehicles was out of service and as soon as it was repaired he would make the necessary arrangements for the Bridgewater course on drug enforcement.

For some reason, apparently the Board was not satisfied with the Chief's description of his dealings with Cpl. Grant. The Secretary was instructed to write to the NCO in charge of the Bridgewater Detachment to request their version of the Chief's story.

On April 27, 1982, Cpl. Grant replied stating that "I feel that Chief of Police A. K. McRae of your Department is under a serious misapprehension regarding any drug-related instruction to be given by Bridgewater Drug Section to his police officers."

In his letter he went on to state:

> "Early in March of this year I was having a discussion with Bridgewater Police Chief, David McGinnis at his office in Bridgewater and at that time I was introduced briefly to Chief A. K. McRae by Chief McGinnis. Chief McRae had no active part in my conversation with Chief McGinnis but was present when I discussed the Drug Course at Holland College with Chief McGinnis.
>
> "Chief McGinnis was obtaining my views on the course offered by the College and any alternatives that may be open to him.
>
> "In my conversation with Chief McGinnis I offered to assist him and his Department by providing limited instruction to some of his constables in various aspects of day to day drug enforcement.
>
> "It may be noted that my Drug Section is responsible to assist the Bridgewater Police Department, so of course their increased efficiency in the Enforcement of the Narcotic Control Act is of concern to me.
>
> "However, my comments were made strictly to the Chief of the Bridgewater Police Department and not to the Chief of the Kentville Police Department, A. K. McRae. It should be noted that Kentville Police Department area is covered by another Drug Section at this time and if assistance is required by the Kentville P.D. in the drug field they should perhaps contact the local R.C.M.P. Detachment, where I am sure they will receive the required help.
>
> "Please be advised also that since that short meeting with Bridgewater Police Chief David McGinnis, no further discussion was held with him or any other Department including Kentville, regarding the assistance I offered Chief McGinnis at that time.
>
> "It is hoped that our position has been clarified on this matter.
>
> "After this letter was drafted on the 82-04-23 I received a phone call from Chief A. K. McRae at 2:30 p.m. He requested that I provide some instruction on drugs to some of his men. I advised him that New Minas Drug Section was the proper agency to contact if he required assistance concerning drugs. This was the only contact I have had with him regarding this matter."

It should be noted that Cpl. Grant's record shows that the meeting with Chief McGinnis, which Chief McRae joined, occurred in early March, whereas Chief McRae was very definite in his testimony that it occurred on February 9, 1982.

On April 26, 1982, Chief McRae reported to the Board that he had called Cpl. Grant who had advised him that the New Minas Detachment R.C.M.P. have a drug squad and that the Chief should contact them.

When questioned by Board members as to why Cpl. Grant would have made the offer in the first place and then changed his mind, the minutes record that the Chief stated that at the time of his original meeting there was no drug section in New Minas. Further in his direct examination by his own Counsel, in describing his dealings with Cpl. Grant the Chief stated that "At the time we were discussing this in February there was no drug section here." The drug section of the R.C.M.P. Detachment in New Minas was established on December 14, 1981.

The Commission finds that:

(a) The Chief of Police misled his Board of Police Commissioners when he stated that drug enforcement training was available for his men from Cpl. Grant of the Bridgewater R.C.M.P. Detachment.

(b) The Chief of Police was grasping at a straw when he told his Board that, at the time of the original discussion in Bridgewater in February or March 1982, there was no drug section in New Minas. If he did not know that the drug section in New Minas was established in December 1981, then he was extremely poorly informed as a Chief of Police of the local area.

Allegation of Indecent Assault

A male citizen testified, in camera, before the Inquiry in relation to his supposed position as a 'police informant'. His evidence dealt with the allegation of Chief McRae to Town Council that he was investigating a Council member for indecent assault.

Chief McRae's previous in camera evidence was to the effect that the citizen's wife had been indecently assaulted at the Kentville Legion on Remembrance Day 1981 by an intoxicated town official. Chief McRae recalled the incident as occurring on November 11, 1981, and being advised of the incident by the male citizen in January 1982, near the time of Council's request for his resignation. The Chief further testified that the parties did not wish to proceed with the complaint and no proceedings or investigations were commenced. The request to withdraw the complaint was, according to the Chief, requested subsequent to the resignation issue of the drug investigation incident.

The citizen testified that he was a friend of the Chief and saw himself as an individual who could supply the Chief with information on members of Council or the administration if they were making life for the Chief a little unbearable.

The citizen testified that he met with the Chief and advised him of an incident that occurred at Founders' Night in the IOOF Hall a number of years ago. The citizen testified that a member of the town administration had become intoxicated, had used his hands a little too freely with female guests and had created a scene. The citizen testified that his concerns centered around the fact that the town official had stated that he would get the "boys (police officers) over at Town Hall to drive (him) home". The citizen felt that this was improper conduct on the part of the official to try to use his influence in this way. The citizen testified that he gave this information to the Chief so that he could check the police log to see if the police had driven the official home. The Chief reported that he was unable to find such a report.

The citizen also testified that the same town official had used his hands freely on his wife while she was dancing with the official. The citizen testified that his wife was fully capable of looking after herself and after telling the official to either mind his hands or lose them, she had no further difficulty. The citizen testified that the incident occurred a year to a year and one-half before he told the Chief of its occurrence. The incident could very well have occurred in January or February of 1981.

The Commission concludes, on the basis of the evidence, that at no time was the citizen making a complaint about an alleged indecent assault on his wife by a town official. The purpose of the citizen's information was to provide Chief McRae with incidents which may be of benefit to him should he receive undue pressure from Town Council or the Board or the administration. The soul and substance of the information provided by the citizen was to alert the Chief of the possible abuse of authority by the town official to possibly request the police to drive him home in an intoxicated state.

The citizen's evidence, while vague in certain points, indicates that the incident in question occurred one to two years prior to the Chief's confrontation with the Town Council over their request for his resignation.

The Commission finds that:

(a) There was no complaint against any town official in relation to an indecent assault nor was there any request for an investigation.

(b) The Chief's comments to Town Council at the time of the request for his resignation were without foundation and were spoken solely as a threat to Council in an attempt to coerce the Council into withdrawing their demands for his resignation.

(c) Chief McRae mislead the Inquiry.

(d) The citizen cannot be classified as a police informant as that term is generally understood.

Allegation of Obscene Telephone Calls

A lady citizen testified, in camera, before the Inquiry. The citizen was requested to testify as a result of certain evidence given by Chief McRae. It is necessary to supply a brief background prior to reviewing the evidence of the citizen.

Chief McRae had earlier testified, in camera, that the citizen was an informant whose information resulted in his conducting an investigation of obscene phone calls, allegedly by a Town of Kentville Council member. The evidence of the Chief was that the citizen was herself the recipient of suggestive and obscene phone calls from this Council member. Chief McRae had testified that when his resignation was requested by Council, one of his responses was that members of Council were being investigated and there was the possibility of charges being laid with regard to an indecent assault and the making of obscene phone calls.

The citizen's evidence was such that it was clear that she never received any obscene phone calls herself. It is clear that any obscene phone calls were received by employees of her store. She testified as to the nature of the calls and to the general concensus that the calls were from a youthful individual.

The citizen testified that she did not receive any suggestive phone calls asking her to go out on a date or for the evening. This would appear to be in direct conflict with Chief McRae's evidence. The citizen's evidence was also clear that she did not receive obscene phone calls nor did she identify any Council member as making such calls.

The thrust of the citizen's evidence was that she had a certain feeling that wherever she went, a certain Council member would also be present. She felt nervous, and with her husband being away frequently, she wanted the police to keep an eye on her residence to give her a sense of security. It is also clear from the citizen's evidence that she at no time wanted any Council member investigated relative to obscene phone calls, nor did she ever suspect any Council member of making any obscene phone calls.

The Commission concludes that it is readily apparent from the evidence of the citizen that she was not the recipient of any obscene phone calls from any Council member as alleged by Chief McRae. The citizen's place of business was receiving obscene phone calls but they were felt to be attributable to a young individual. The citizen's only personal concern dealt with her nervousness, and her desire to have police occasionally check her residence while her husband was out of town. She felt it was a strange coincidence that a Council member would appear in places that she frequented.

The Commission finds that:

(a) The citizen did not request or make any suggestion that the Chief should investigate any Council member pertaining to any alleged obscene phone calls or conduct.

(b) The citizen can in no way be classified as a police informant as that term is generally understood.

(c) Chief McRae had no foundation or basis for advising Council that he was investigating one of their members on the basis of alleged obscene phone calls. The evidence is clear that there was no complaint in that regard nor was there any investigation to substantiate such an allegation.

(d) Chief McRae was responding by way of threat to Council as a result

of their request for his resignation.

(e) Chief McRae's conduct in this particular incident is reprehensible and untruthful.

(f) Having to deal with the police informant's privilege argument was a complete and unnecessary expenditure of time and effort.

MACE

Mace is a prohibited weapon under the Criminal Code. The Section 82 definition of 'prohibited weapon' subsection (e) which is amplified by Prohibited Weapons Order No. 1, SOR/74-297 states, "any device designed to be used for the purpose of injuring, immobilising or otherwise incapacitating any person by the discharge therefrom of .... (b) any liquid, spray, powder or other substance that is capable of injuring, immobilising or otherwise incapacitating any person."

The police can be authorized to use prohibited weapons in the course of their duties provided the use does not constitute excessive force.

Within the police community, mace is a very controversial police weapon. Although mace is widely used by police forces in the United States, very few forces in Canada have been authorized by their Boards to use mace and almost all of those are small police forces. The only exception known to the Commission is the Dartmouth Police Force which was authorized to use mace beginning in May 1983, although it had mace in its tactical force arsenal since 1979. None of the very large forces in Canada, including the R.C.M.P., have taken steps to seek approval from their governing authorities for the use of mace.

The Dartmouth Police Department engaged Dr. Ron Van Houten, Ph.D., of Mount St. Vincent University, as a consultant and charged him with researching the use of mace and with preparing background and training manuals on its use.

He produced two manuals, "The Correct Use of Sensory Irritant Aerosol Weapons" and "Training Guide for the Correct Use of Sensory Irritant Aerosol Weapons". This latter manual was co-authored by Dr. Paul Nau, Ph.D., of Mount St. Vincent University.

The following quote is taken from the introduction of the first manual:

"Sensory Irritant Aerosol Weapons can be effective in assisting police officers in arresting violent people with a minimum use of force. However, the use of Sensory Irritant Aerosol Spray Devices is not likely to be safe or effective unless the rules presented in this manual are followed."

The following are some of those rules:

-Always maintain at least 3 meters between yourself and a suspect.
- Don't use the spray from closer than 1 meter.
- Don't spray for more than 2 seconds.
- Always handcuff your prisoner immediately.
- Always decontaminate immediately.
- Never use a sensory irritant aerosol in a closed space.

In the second manual, in the chapter dealing with "When to Use the Spray Device", the following three guidelines were established:

"1. It is appropriate to use a sensory irritant spray device whenever you are being attacked or are likely to be attacked and injury to either yourself or the attacker is likely to result.

"2. It is justifiable to use a sensory irritant spray device whenever another person is being attacked and injury is likely to result. This person could be your partner or any other member of the community.

"3. Use of the sensory irritant aerosol is justified whenever verbal persuasion has failed and you feel that the use of a come-along hold will fail or is likely to lead to injury."

The manual then describes 11 incidents and seeks to determine if, under the circumstances, the use of mace would be justified or, if not, constituted excessive force.

Both manuals emphasize the need to decontaminate immediately and that the police officer must personally carry out the decontamination process which particularly involves the eyes, the skin, and may require a change of clothing. The manuals stress that after decontamination that the person sprayed must be taken forthwith to a hospital for a medical examination, especially the eyes.

The first manual also contains an "Incident Report Form" which must be completed every time mace is used. This form when completed is used by the department to analyze the incident to determine if the use of mace was justified and to record important details should the use of mace in the incident ever be questioned in court.

The Dartmouth Police Department have a rule that every officer, before he is issued with mace, must take and pass a training course and must receive periodic retraining.

Since May 1983 when mace was issued to police officers, up to the end of this inquiry, mace had been used 4 times by the Dartmouth Police Department, a force more than 12 times the size of the Kentville Police Force.

Kentville Police Officers were issued with mace in September 1980 after a very short training course given by two Dartmouth police officers. That course was not comprehensive because the mace training manuals had not yet been produced.

Although the Chief of Police had provisions for the use of mace in his Operational Orders which were approved by the Board, he did not ensure that his orders were enforced.

As a result of allegations of the indiscriminate use of mace by Kentville police officers, the Commission's investigators recommended to the Board and the Chief that mace cannisters be withdrawn until the Commission could arrange the comprehensive training course which was then available from the Dartmouth Police Department based upon the new training manuals. This was done at the end of June 1983 and the Board and the Chief authorized the re-issue of mace to the police.

Mace has been used by Kentville police officers on many occasions. Three incidents of the use of mace came out in the evidence presented to the Commission.

Cst. MacIntyre sprayed Mr. Gerald Kynock with mace in the foyer of the county jail and that incident is analyzed in another section of this report. On the basis of evidence presented, measured against the guidelines and incidents analyzed in the training manual, the Commission does not consider that the use of mace was justified.

Cst. Dunfee sprayed Mr. Michael Keddy with mace in the Centre Square Parking Lot. This incident is also analyzed elsewhere in this report. Again the Commission does not consider that the use of mace was justified.

Cst. Reade sprayed Mr. Derrick Chisholm with mace in the back of the RCMP van. This incident is also analyzed elsewhere. The Commission accepts that the use of mace was probably justified in this incident.

In none of these incidents did the constables carry out the decontamination procedure nor did they render an incident report.

In his evidence the Chief of Police displayed a casual attitude towards the use of mace. In the Minutes of a Management Labour Relations meeting on March 24, 1980, the Chief is quoted as saying, "there is no permanent damage and it may leave a rash". At that point he did not seem to be aware that mace is more dangerous to the eyes than any other part of the body and that failure to follow proper operational procedures of distance and duration of burst could cause permanent damage to the cornea of the eye. By his own evidence the Chief of Police did not attend any of the training sessions or examine the training material. It is likely that his attitude filtered down to his men and caused them to be more casual in its use than they should have been.

The Commission finds that:

(a) The members of the Kentville Police Department require further instruction on the use of mace, when the use of it is justified and on proper decontamination procedures.

(b) The Board and the Chief should review their policy direction on mace in the light of the Dartmouth training manuals; revise that policy if necessary; ensure that it is scrupulously followed; and ensure that incident report forms are rendered every time mace is used.

(c) The policy direction should provide that every officer must take the course on the use of mace and pass a training course before he is issued with mace and must take periodic re-training.

STRIP SEARCHES

During the course of the Inquiry evidence was heard of a total of ten persons who were subjected to strip searches by members of the Kentville Police Force. One person was searched in the police station for drugs. The other nine were searched at the County Lock-up prior to being placed in a cell. This is an inordinately high number of strip searches for a small police force the size of the Kentville Force.

The Chief of Police stated in his testimony that he was unaware that his men were conducting strip searches on prisoners.

On the subject of strip or 'skin' searches, the case of Regina v Paul Joseph Morrison in August 1982 in the B.C. Provincial Court before Smith Provincial Court Judge is of interest on the subject of unreasonable search and seizure. The Judge stated in his written judgement:

> "Although the accused consented to a search, which search resulted in nothing being found, he refused to permit a "skin search" and only complied with the police demand when he was told he would either be searched in a washroom or taken to the police station -- Marijuana was found during that "skin search"--As the accused was not under arrest prior to the finding of the narcotic although the police had reasonable grounds to believe he was in possession of a narcotic, the police were not entitled to search the accused in the absence of an arrest--Although s.10 of the Narcotic Control Act authorizes the police to enter a "place" where a narcotic is reasonably believed to be present, a public street was not a "place" within the meaning of s.10 as otherwise, any citizen could be searched on the basis of a belief that the citizen was carrying narcotics--The search was accordingly unlawful--Permitting the evidence to be adduced against the accused would sanction similar searches by the police and, accordingly, that evidence was excluded."

Evidence before the Inquiry is that the procedure followed at the Kings County Lock-up insofar as the Kentville Police Force is concerned is that a person who is arrested and is to be locked up is brought to the foyer of the County Lock-up. The jailer remains in his office behind a wire mesh screen and gives directions to the police officers as to the type of search he wishes the prisoner subjected to and the police officers comply. Apparently in far too many cases the jailer is requesting strip searches and that prisoners be put in the cells in their underwear.

There has to be a reason for requiring a strip search. The policy of the RCMP is that "a strip search shall only be conducted in extraordinary cases and on reasonable grounds that this method is necessary to recover evidence adhering to the prisoner, or the prisoner has concealed a weapon or drugs on his person."

The Commission considers that any other reason for subjecting a person to a strip search is unreasonable and is a flagrant violation of Section 8 of the Charter of Rights.

The Charter of Rights and Freedoms, A Guide for Canadians, has this to say on legal rights:

> "The rights outlined in these sections spell out the basic legal protection that will safeguard us in our dealings with the state and its machinery of justice. They are designed to protect the individual and to ensure simple fairness should he or she be subjected to legal proceedings, particularly criminal cases.
>
> "These legal rights are an expansion of those included in the Canadian Bill of Rights of 1960, and most of them already exist in Canada by precedent and practice, or ordinary statute law. Enshrining them in the Constitution will ensure Canadians that they will not be able to be taken away from us easily by the state or its law enforcement agencies.
>
> "Specifically, we are guaranteed that the right to life, liberty and security of the individual will not be able to be taken away from us by the authorities of the state, except by laws and procedures that are lawful and fair.
>
> "These legal rights also prohibit unreasonable search or seizure. In addition, even though the law authorizing the search or seizure may be reasonable in itself, the manner in which it is executed by the police might be challenged as unreasonable in the circumstances; for instance, the police will not be able to use unnecessary force.
>
> "There is also the assurance that no person may be detained or held in an arbitrary manner. A police officer will have to show reasonable cause for detaining a person."

The Kings County Lock-up is administered by the Municipal Council as authorized by the Municipal Act, Chapter 192 RSNS 1967. The jailers are accountable to the Municipal Clerk of Kings County who has established standing orders for the jailers. These orders describe types of searches, but do not address the questions of when they should be used and who should conduct the search.

The Court and Penal Institutions Act, Chapter 67 RSNS 1967, in Section 39 gives the powers of the Inspector of Penal Institutions and states:

> "39 (1) The Inspector shall have power from time to time, subject to the approval of the Governor in Council, to make rules and

> regulations and to alter, amend or rescind any existing rules or regulations for the government, management and operation of penal institutions and, without limiting the generality of the foregoing, relating to:
>
> (a) the maintenance of prisoners in regard to diet, clothing, bedding and other necessaries;
>
> (b) the employment of prisoners;
>
> (c) medical attendance;
>
> (d) religious instruction and chaplaincy service;
>
> (e) the conduct of prisoners and the restraint and punishment to which they may be subjected;
>
> (f) generally, the treatment and custody of prisoners, the interior economy and management of penal institutions and all such matters connected therewith as are considered by him expedient. 1966,c25,s4."

The mandate of the Nova Scotia Police Commission in conducting the Inquiry did not extend to an examination of the operation and procedures of the County Lock-up. Therefore, the evidence before the Commission was based only on the examination of witnesses two of whom were members of the public who had been incarcerated and the others police officers, and on exhibits admitted in evidence.

The Commission understands that the procedure followed by other municipal police forces who use County Lock-ups or correctional centres as lock-up facilities is that, once a prisoner enters the facility, he is turned over to the jailer who is personally responsible for searching the prisoner while the police stand by to assist if this is required. The Board in Kentville should endeavour to have this procedure instituted at the County Lock-up insofar as the Kentville Police Department is concerned.

The Commission:

(a) Condemns, in the strongest possible terms, the use of unreasonable strip searches by police officers at the County Lock-up.

(b) Recommends that the Municipal Clerk of Kings County and the Inspector of Penal Institutions, as a matter of urgency, review and update the regulations on the procedures for searching prisoners at the lock-up.

(c) Recommends that the Board of Police Commissioners and the Chief of Police establish firm policies and procedures on strip searches and ensure that they are scrupulously observed.

CPIC PRINTOUTS AND CRIME INDEX

Cst. Morrison testified that he requested crime index records of persons giving testimony at the Inquiry. He stated that the records were mailed to the Chief of Police. Cst. Morrison stated he was away at the time the documents arrived and the Chief of Police was puzzled as to why he had received them. Cst. Morrison stated that on his return to duty he met with the Chief, explained that he had sent for the records and intended to give them to Counsel representing most of the police officers at the Inquiry. Cst. Morrison stated that the Chief of Police gave him permission to give the crime index records to his Counsel.

The Chief of Police was evasive in his testimony on the crime index records. He recalled that Cst. Morrison had asked him "if it would be all right to provide his Counsel with information of criminal records of the witnesses that were on the list (a list of witnesses scheduled to give evidence before the Inquiry), and I said I don't see anything wrong with that, yes." He stated that an envelope arrived from the Halifax Crime Index Section containing the criminal records of the witnesses and that he locked the envelope away because Cst. Morrison was on vacation.

The Chief of Police was evasive in his testimony on whether he authorized Cst. Morrison to give the hard copy of the criminal records to the Counsel. He maintained that he agreed that the information contained in the criminal records could be given to the Counsel, but he denied that he agreed that the actual documents could be given to him. The Chief of Police was splitting hairs.

In his testimony, the Secretary to the Board gave evidence that, frequently, when a member of the public complained about the actions of a police officer, that after the investigation, the report of the Chief of Police was given to the Board with a copy of the criminal record of the complainant attached to it.

The Canadian Police Information Centre, CPIC, supplies two unique types of information. The first, which is commonly referred to as the CPIC system, consists of a terminal in authorized police agencies across Canada. The Kentville Police Department has a terminal. This terminal is used to access investigative lead type of information. For example, it can be used to identify the owner of a vehicle or whether a vehicle with a certain license plate is a stolen vehicle. It can also be used to determine whether an individual is wanted to answer for a crime or has a criminal record.

The second type of information which comes from CPIC is available only to a limited number of terminals across Canada. In the case of Nova Scotia the terminal is located in the Crime Index Section of 'H' Division, RCMP at Halifax. This terminal prints out a detailed crime record for any individual who has one. This is referred to as the criminal record two system.

The information that was requested by Cst. Morrison came to the Kentville Police Department in this latter form.

In addition, Sgt. David MacLeod,R.C.M.P., an auditor of the CPIC system gave evidence that on July 14 and 15, 1983, the Kentville terminal had queried the computer for criminal records information on most of the persons giving testimony before the Inquiry and on the Mayor, members of Council and the Board and town officials. All police officers who were serving on that date were asked whether they had made these queries. All of them denied having done so. At the very least, one of them was lying as no one except a police officer and the secretary in the police office has access to the CPIC system terminal. Unfortunately the CPIC system records do not record the name of the person making the query.

The Confidentiality (Dissemination of Information) regulations in the CPIC Reference Manual, in part, state as follows:

"3.6 CONFIDENTIALITY (DISSEMINATION OF INFORMATION)

(a) Information that is contributed to, stored in, and retrieved from the CPIC files is supplied in confidence by the originating agency for the purpose of assisting in the detection, prevention or suppression of crime and the enforcement of law. This information must receive the degree of protection necessary to prevent disclosure to unauthorized agencies or individuals. CPIC printouts or copies thereof pertaining to Criminal Record Synopsis, Persons, Vehicle, Boats and Motors, and Property Files shall be disseminated only to those agencies listed in Part 1, Section 3.2(a)."

"3.2 ACCESS TO CPIC

(a) Access to CPIC files shall be limited to:

(i) RCMP

(ii) Provincial Police Forces

(iii) City Police Forces

(iv) Municipal Police Forces approved by the CPIC Advisory Committee".

"3.6(d) Each agency having direct terminal access to CPIC files is responsible for the confidentiality and dissemination of information stored on the CPIC System and may disseminate such information only to agencies legislatively responsible for law enforcement on a need-to-know basis".

"3.6(e) The need for any further dissemination of such information shall be the discretion of the Attorney General, or Solicitor General of the province or territory responsible for the direction of

> Provincial or Territorially controlled agencies, or the Attorney General or the Solicitor General of Canada responsible for the direction of federally controlled agencies. A record of such authoriztion must be kept by the agency involved (see Appendix "A" for a list of government agencies which have been approved)."

"Apendix A

Nova Scotia

Department of the Attorney General
Crown Prosecutors
Correctional Services (Adult Probation)
Forest Resources Technicians (Lands & Forests Wardens)"

The Commission has been informed that these regulations apply to both the CPIC System and the criminal record two system.

The following are excerpts from a policy directive approved by the Solicitor General of Canada on April 6, 1982, and entitled, "Release of Criminal History Information By The Royal Canadian Mounted Police. It states:

"Policy

Release of the above information may be made to the following agencies and individuals:

1. Canadian police forces and correctional agencies, investigative or enforcement bodies of federal, provincial or territorial government departments; for use in connection with their official duties and responsibilities in relation to the execution or administration of the law.

11. Canadian police forces and correctional agencies for use in determining the suitability of applicants for employment with these agencies."

"IMPROPER USE OR DISSEMINATION OF CRIMINAL HISTORY INFORMATION

Where there is an indication that an agency referred to in this document has improperly used or disseminated Criminal History Information or has failed to purge or return such information when requested to do so, an investigation shall be made and where warranted, steps shall be taken to have the situation corrected. Failure to comply with the intent of this policy by any of these agencies may result in the modification, suspension or cancellation of these services."

The Rules and Regulations of the Kentville Police Force which were passed by the Kentville Town Council on January 11, 1978, on the subject of CPIC state:

> "The duty officer shall ensure that all established policies and procedures as contained in the CPIC Reference Manual are adhered to."

Members of the Board and the Secretary to the Board were visibly shaken when they heard the evidence that the CPIC Terminal in Kentville Police Department had been used to query whether they had criminal records or not.

One member, Mrs. Ross, made this statement to the Inquiry: "...And the other mention is the fact that I also was not asked about having my name run through C.P.I.C. My name has been run through before because in order to become a Block Parent I had to sign a waiver that I would allow it to go through. So I know there's nothing there. I guess it's just the fact that I wasn't asked, it almost seems an infringement on my right. I have done nothing wrong. I have not been caught speeding. I have not stolen a car. I don't think that there's any reason why my name should have been run through, and I just take offense to the fact that it would have been although I know there is nothing there. It's just the fact that something like that can be done without my knowledge. It's kind of scary in a democratic society."

The Commission feels strongly that the improper use of the CPIC information cannot be tolerated, especially by those who operate the system in the name of law enforcement.

Public opinion is becoming increasingly sensitive concerning personal privacy, and with good reason, considering the data banks and computers which carry so much information. It would be ironic indeed if the technology used to provide security for our nation should be abused by those entrusted with its operation.

The Commission is most critical of the casual attitude which the Kentville Police Officers and the Chief of Police seemed to show regarding the use of CPIC information.

The Commission finds that:

(a) Cst. Morrison breached the policy on release of Criminal History Information obtained from the Canadian Police Information Centre when he gave criminal records information obtained from Halifax Crime Index to Mr. Brian Smith.

(b) A constable or constables of the Kentville Police Department, name or names unknown, used the Department's CPIC system terminal to query the computer for criminal records of witnesses appearing before the Inquiry, thereby breaching the confidentiality regulations of the CPIC Reference Manual.

(c) Attaching the criminal record of a complainant to the report to the Board of the investigation of a complaint against a member of the Kentville Force is a breach of the policy on the release of criminal history information.

(d) The casual attitude of the Kentville Police Officers, including the Chief of Police, who gave evidence on CPIC is most reprehensible and unprofessional.

RACIAL PREJUDICE

It is acknowledged that racism may be found in most North American communities to a greater or lesser degree. Wherever there is discrimination of human beings on the basis of race, colour, religion, sex or language, it must be dealt with openly, frankly and firmly. Every citizen has the right to be treated with respect. Verbal abuse is surely as much of an attack on the dignity of a person as a slap across the face. Racist language is demeaning and reflects a prejudiced disposition which is the mark of ignorance and cowardice.

It is recognized that the policeman's lot, at times, is an unenviable one, especially when dealing with those who wish to provoke or embarrass the police officers. Care must be taken not to downgrade all police officers because a few have acted in a manner which reflects adversely on the whole police department.

While an isolated allegation of a racial remark may not prove to be the usual behaviour of one particular officer, repeated allegations implicating the same officer, without doubt, is cause for serious concern and investigation.

Cst. Murphy's name came up several times at the Inquiry concerning racist remarks which were serious but unconfirmed, or in which he was given the benefit of the doubt. Miss Sheila MacIntyre alleged he called a black friend of hers "nigger". He admitted that he might have.

In the Fraser Hebb, Jr. incident, Cst. Murphy admitted that he might have used the term "punk" or some such term in addressing Mr. Hebb.

In the Anthony Clements incident a civilian stated he heard Cst. Murphy, while off duty, call Mr. Clements "nigger boy". Mr. Clements says that he was upset when Cst. Murphy called him "nigger". Mr. Clements also said that Cst. Murphy referred to Mr. States as "that black nigger States".

In the Murray Copage incident, witnesses testified that either Cst. Turner or Cst. Morrison called Mr. Copage a "yellow spear chucker". Both officers denied using or hearing the term used. The Commission believes that some such term was used by one of the officers.

It is appreciated that the behaviour of some of the citizens, who are well known to the police, is, to say the least, provocative and the language on the streets is not always that which would be expected at a Sunday school picnic. It nonetheless remains that police officers have a duty to behave with propriety at all times in the performance of their duties.

It is the view of the Commission that the Chief of Police must play a key role in making clear that all allegations of discrimination by the police against any citizen will be investigated and discussed with those, fairly or unfairly, accused.

A review of the testimony alleging racist remarks by police officers suggests to the Commission that the Chief appeared to be surprisingly indifferent in dealing with such allegations. For example, he admits in the Murray Copage incident that Mr. MacLellan came in and told him something about some of his people beating up an Indian, but he did not pursue the matter further with his police officers and gave inadequate explanations.

The Commission was disturbed by the number of occasions where the Chief accepted the word of the constables, or did not attempt to discuss the matter with the constables involved when racist terms were allegedly used. By ignoring such allegations he failed to impress upon his men that racism would not be tolerated.

The Commission recommends that regular in-service training sessions be held with all members on the subject of racism and relations with the public. The assistance of the Human Rights Commission in arranging a seminar on race relations is one possibility.

LOITERING PROBLEMS

The Inquiry heard evidence from several witnesses concerning the persistent problem of loitering in the Town of Kentville. It is obvious to the Commission that loitering has been a long-standing difficulty in Kentville. Excerpts from the Minutes of the Kentville Board of Police Commissioners meetings from 1979 to 1980 reveal that the issue of loitering was regularly on the agenda. Although it was a constant topic, it was readily apparent to the Commission that no concrete steps were taken to come to grips with the problem. It appeared that the local Board, the Chief and the Town Solicitor were going around in circles in an effort to determine how best to proceed with legal charges against the offenders. This inaction or failure to deal effectively with the situation only caused increased frustration to various members of the business community who still had to deal with individuals loitering near their businesses. It appeared that their written and verbal complaints were being disregarded.

It was clear from the testimony of the Crown Prosecutor, Mr. Jack Buntain, that private citizens were not without fault in attempting to stem the loitering problem. On many occasions, when the police were investigating citizens' complaints of loitering, these same individuals were not prepared to go to court to testify as a crown witness if charges were laid. If private citizens are to be vocal in their complaints about loitering, then they must also have the conviction of heart to follow through with the complaint and assist the police and prosecuting authorities in establishing a prima facie case before the court.

The Inquiry was also advised that Crown Prosecutor Buntain provided the Board and the Chief with a written memo of the appropriate procedures that he required to be followed in prosecuting loitering offences. Mr. Buntain also provided the Chief with copies of the memo for circulation among the Department. This information was provided on December 31, 1982. Mr. Buntain made it clear that he would only prosecute loitering if this procedure was completely followed.

The approach of Mr. Buntain is quite practical and the Commission wonders why it took the Kentville Board and the Chief so long to meet with Mr. Buntain to develop this procedure.

Mr. Buntain also testified that it was his opinion that the town by-law on loitering was "atrocious". It was his evidence that the by-law was incapable of being enforced in court. He testified that he made his opinion known to the Town Solicitor, the Chairman of the Board and Mr. Hardy. Mr. Buntain also indicated that he suggested how the by-law could be properly amended. He testified that he made this suggestion two years ago and nothing has been done.

The Commission finds that:

(a) The past problems of loitering in the Town of Kentville were due, in part, to the failure of the Board, the Chief and the Town Solicitor to direct their minds to the proper procedure to be followed in laying charges for loitering.

(b) If the citizens of Kentville observe loiterers and lodge complaints of loitering, then they should also accept the responsibility of being a crown witness in the legal process.

(c) The Board of Police Commissioners and the Council should take the necessary steps to follow the suggestions of Mr. Buntain in amending the loitering by-law.

COMPLAINTS AGAINST POLICE

In the Introduction it was stated that "over the past 40 years there have been many changes in public attitudes towards police officers, police forces and policing in general. In Nova Scotia and across Canada, the relationship between the police and the public is such that the police cannot successfully perform the task of preventing crime and maintaining law and order without the support and confidence of the public. This is a fundamental principle and one which all police officers and all citizens must recognize."

One fundamental requirement in obtaining the confidence of the public, the citizens of any town, is their knowledge that the complaints they make against police will be dealt with expeditiously and fairly and that they will be informed of the decision with regard to their complaint together with the reasoning behind it.

What is the definition of a complaint against the police? Any definition of a complaint must be broad enough to include not only those matters immediately recognizable as complaints, but also other categories of communication, including suggestions for change. Judge Rene Marin in his "Commission of Inquiry Relating to Public Complaints, Internal Discipline and Grievance Procedure Within the Royal Canadian Mounted Police" defined a complaint as:

> "Any communication received from a member of the public, either orally or in writing, which criticizes the behaviour of a member of the Force or alleges the failure of the Force itself to meet public expectations."

The Commission considers this to be a valid and useful definition of a public complaint. Whenever the word 'complaint' is used in this section, this definition is applicable.

Before the Police Act was proclaimed in 1976 there was no specified system for making complaints against the police in Nova Scotia. Traditionally, complaints were made to a police officer, usually the Chief of Police, and the complainant had no knowledge of the extent of the investigation done by the police. Except for the larger police forces, the complainant might never receive any communication about the outcome of his complaint. The unfairness of such a system was a matter of concern to many organizations and citizens and their agitation resulted in the complaints procedure being included in the Police Act.

The Police Act and the Regulations under the Act contain procedures which were designed to be as fair as possible to the police and a complaining member of the public. The procedures do not cover every eventuality. An enlightened interpretation of the general purpose of the procedures is necessary.

All complaints are important as they indicate concerns about weaknesses in the policing system and, also, may indicate a breakdown in police-community relations. Although the number of complaints may be few compared to the daily police-public contact, it is imperative that those which are received are taken seriously and that an effective procedure for handling them that is fair to both the complainant and the police officer, is established in every municipal police department.

In a democratic society citizens must have the right to complain against police officers about the exercise of their authority. At the same time, the system must ensure that the police officer has a right to a fair hearing. It is, therefore, important that a full and impartial investigation precedes the decision on a complaint.

It is also important that, where practicable, an informal resolution of the complaint be attempted. Any police officer involved and the complainant should be brought together by a third party to discuss the matter in a frank and forthright manner. This is often a very effective way to resolve a complaint.

Ultimately, the way that complaints are handled by any police department becomes public knowledge and has a marked effect on public confidence in their police force. If the complaints are seen to be handled well and fairly, public confidence is high. If they are thought to be handled poorly, public confidence is very adversely affected.

The Inquiry heard evidence of complaints from four persons which the Chief of Police failed to follow up on. Evidence was also given by members of the Board which recounted numerous other complaints that were brought forward either to the Chief, the Board, the Secretary to the Board or the Mayor and other Councillors. When asked by Counsel to give an opinion on the way in which the Chief of Police handled complaints, Dr. Rafferty, a member of the Board of Police Commissioners, replied, "A very specific reason I've seen since I joined the Board is that our Chief of Police has not dealt with matters that were brought to him by the public in a proper manner. Therefore the public is forced to turn to either the Town Administrator, the Mayor, members of the Board, and some have related complaints but they don't bring them forward because they don't know where to take them."

In her evidence Mrs. Ross, another member of the Board stated, "We have had some complaints that came to the Board because, well for one reason or another they felt they were not getting satisfaction by going through the Chief of Police."

In his evidence, the Chief of Police stated that the persons that came to his office were expressing "concerns" and were not registering a complaint. However, the Commission considers that the "concerns" being expressed were complaints under the definition of that word as Judge Marin explained it.

In his evidence Mr. Roland Ettinger, a resident of Kingston, Nova

Scotia, and the father of a young man who alleged he was abused by two Kentville police officers in late November 1981, stated, "This was after the New Year, our lawyer advised us to, for us at least to display a bit of common decency and not lodge an official complaint before the festive season, and we waited until after the New Year, and we went over and lodged what we thought was an official complaint with Chief McRae. Notes were taken down while my son was lodging the complaint." When asked what Chief McRae had said at the end of the interview, he stated, "He just said he would look into it, which I felt as Chief of Police that he would."

In his evidence David Ettinger stated that when he went with his father to the Kentville Police Station, "We walked in and asked to speak to Chief McRae and he came out and said, 'what would you like' and we said that we would like to file a complaint. He said, 'Pertaining to what?' and we said 'police brutality' and he said 'well you better come with me.' We went in his office to file the complaint which he never asked us to sign."

On the other hand Chief McRae in his evidence stated, "I asked Mr. Ettinger to put his complaint in writing because I wanted to make sure exactly what I was supposed to be investigating and get back to me as soon as he could." Later the Chief stated, "I was quite explicit in instructing them that I wished a written complaint."

The Commission finds it astonishing that there should be such a completely different recollection of the discussion in Chief McRae's office by the Chief, on the one hand, and the Ettinger father and son on the other. One thing is clear, the Ettingers did not understand the complaints procedure and Chief McRae did not attempt to explain it to them. They obviously thought that the statement David gave to the Chief of Police which he appeared to take down in writing constituted the official written complaint.

The Chief of Police filed a report on the Ettinger complaint with the Board after the statute of limitations had expired entitled, "Alleged Disciplinary Default by Constables B.K. Morrison and C. B. Thomas, Kentville Police Force, on November 28th, 1981 - Complainant David Ettinger, 28 Brookside Drive, Kingston, N.S." This report included a copy of the notes the Chief had made when he interviewed the Ettingers. It contained the bare bones detail of an allegation that David Ettinger had been struck by Cst. Thomas, fell to the ground, Cst. Morrison put handcuffs on, was struck twice more on the head by Cst. Thomas, and was then picked up and roughly placed in the chair by the breathalyzer. There is also a list of some witnesses with telephone numbers. With this information to hand, Chief McRae insisted that he still did not have a complaint.

Apart from reporting it to the Board, Chief McRae did nothing about the alleged assault and did not interview the two police officers involved.

The matter of racist remarks by Constable Murphy that were reported as complaints to the Chief of Police will be dealt with in a separate section of the report. The Commission does, however, wish to comment on one other complaint that was made to the Chief of Police.

In 1979 Douglas Viner visited Chief McRae in his office to complain about the treatment his brother Graydon Viner was receiving from members of the Kentville Police Force. He testified that the day he went to see the Chief his brother, Graydon Viner, told him he had been beaten up the night before by members of the Force. Mr. Douglas Viner reported that it was obvious to him that his brother had received injuries and he gave him money to go to the hospital for an examination.

The Chief told Mr. Douglas Viner that he would not accept a complaint from him but that he wished to discuss the matter with Graydon Viner. Douglas Viner said his brother was so frightened of some of the Kentville police officers that he felt certain he would not come to the police station. In his testimony the Chief said he had offered to go to see Graydon Viner at his home. Douglas Viner does not remember this and claimed that the Chief of Police did not even take down his name. In any event, the Chief did not do anything further about this serious allegation against his men.

The Commission finds that:

(a) The Board and the Chief of Police need to develop a procedure for dealing with complaints which is much more sensitive and responsive to what the public perceives as legitimate complaints against the actions of police officers and against policing practices and policies.

(b) The Board should accept the definition of a "complaint" as:

> **"Any communication received from a member of the public, either orally or in writing, which criticizes the behaviour of a member of the Force or alleges the failure of the Force itself to meet public expectations."**

(c) The police officer or anyone else receiving a complaint should endeavour to ensure that the complainant has an understanding of the complaints procedure and should provide assistance in the drafting of the complaint when asked to do so.

TRAFFIC AUTHORITY

The Chief of Police was appointed Traffic Authority for the Town of Kentville by the Council in accordance with Section 77 of the Motor Vehicle Act, Chapter 19, RSNS 1967. His duties and responsibilities as Traffic Authority are defined in that Act.

A considerable amount of evidence on Chief McRae's performance as Traffic Authority, especially by the town administrator, was heard at the Inquiry.

On reflection, the Commission decided not to comment on this evidence or on the Chief's performance. The mandate of the Nova Scotia Police Commission is confined to the Police Act.

It is the opinion of the Commission that the chief of police of any town should not be the Traffic Authority. The Motor Vehicle Act gives a wide latitude to the town as to who could be appointed. The Commission considers that a more logical person to be the Traffic Authority would be the town engineer or the head of the Public Works Department whose staff must do the installation and maintenance of traffic signs and traffic markings on the streets in any event.

The Traffic Authority is appointed by Council and should be directly accountable to Council for his duties and responsibilities. The Board of Police Commissioners has no authority under the Police Act to deal with matters relating to the Traffic Authority's duties and responsibilities set forth in the Motor Vehicle Act.

SUPPORT FOR THE KENTVILLE POLICE DEPARTMENT

In conducting the Inquiry, the Nova Scotia Police Commission heard testimony from two witnesses in support of the Kentville Police Department.

Mr. Douglas Patterson stated that he had no complaints regarding the constables of the police department. He felt that the constables and youth of the area have a good relationship, that the police volunteer time to talk on drug abuse, and that Cst. Cooper had addressed the local Boy Scout group.

He expressed the view that there was a conflict between the Chief and the Mayor. He considered that the Town Clerk had too much power and tried to run all departments. He considered that the police were doing a reasonably good job. He admitted that he had never attended any meetings of the Board of Police Commissioners. When asked if he saw any improvement since Chief McRae took over, his reply was "No I can't say I have". He did say that the Chief spoke of interference. He said that he would like to see a regional police force and the constables trained to higher standards of policing.

Mr.Bill Hockey, the Manager of the Camelot Park campgrounds, rated the co-operation with the police over the years as very, very good.

He considered that there was too much political interference in the police department. He also said that he was told by the police of a fair amount of friction in the police force; friction between the Chief and the N.C.O., and between the N.C.O. and the constables.

When asked concerning political interference, he explained that it had existed for a good many years between the Mayor and the police department, but he made no reference to any interference from the town administration or from members of the Board of Police Commissioners.

The Commission appreciates the fact that members of the police department have been active in the community in sports, crosswalks, Red Cross, Boy Scout programs and in speaking in the schools concerning drug abuse.

THE TOWN OF KENTVILLE AND ITS POLICE DEPARTMENT

The general philosophy of policing and the relationship which should be established between the Board of Police Commissioners and the Police Department, and standardized throughout the Province, has been covered in some detail in the introduction to this report. It is not intended to repeat that again in this part of the report but it is suggested that pages 1 to 7 be referred to as the comments which follow will flow from that philosophy.

When the Police Act, Chapter 9 SNS 1974, was proclaimed on October 15, 1976, the Police Services Act, with some minor exceptions not applicable to municipal police services, was repealed. Also, the new Act had a provision in subsection 40(1) which states: "Where there is a conflict between this Act and any other Act, the provisions of this Act shall prevail." Therefore, the provisions of the Towns Act, Chapter 309 RSNS 1967, insofar as they deal with police officers, special constables, and extra constables are superseded by the Police Act.

As was stated in the Background Section, the formation of Boards of Police Commissioners as the governing body for municipal police forces was a radical departure from the previous style of management that Kentville and many other municipalities used for the governance of their police departments. Today, seven and one-half years after the Police Act was proclaimed, Town Councils and Boards have not yet fully adjusted to this new system.

When a Board of Police Commissioners is estasblished, members of the Town Council and the Mayor, if they are not members of the Board, do not have a lawful right to interfere in any way with the operations of the police department. The Town Council does, however, have the responsibility to appoint the chief of police; to approve the police budget submitted to it by the Board; and to appoint, promote and dismiss members of the police force on the recommendation of the Board. In the case of Kentville, in addition to the Police Act, these responsibilities are laid down in Chapter 35 of the By-laws of the Town of Kentville.

In Kentville, the present Mayor has chosen not to be a member of the Board. As a result he has no lawful right to deal with any operational matters of police services in the Town but must deal with them through the Board of Police Commissioners.

As the Inquiry unfolded, the Commission was made aware of the high degree of mistrust that exists between the Mayor, Council members, the Board and the town administration on the one hand, and the Chief of Police and most members of the police force on the other. The Commission is deeply concerned about this very unhappy state and has, therefore, analyzed the reasons for it in some depth.

It is intended to deal first with the office of the Mayor, then with the Board of Police Commissioners, the Chief of Police, the other police officers, with the Kentville Police Association, and finally, with the town administration.

The Mayor

In his testimony, the Mayor made a number of statements about what he perceived to be the relationship between the police officers and the office of Mayor, the Town Council and the Board of Police Commissioners. Two of these are particularly significant and are quoted:

> "I believe that I, somewhere there's a misunderstanding by the Chief of Police, and I guess perhaps the members of the Force. I've been in business many years. I've worked in many organizations. I've done a lot of leadership. Once a person is elected to the position of Chairman of a Board, or Chairman of a Municipality as the Mayor is, in fact he's the titled head of that organization, and everyone that is working with that organization is in fact responsible. I believe if I had employees in private business that weren't able to recognize that there was a boss in

the business, and had the right if he was paying them to ask for explanations. I don't believe that I would have that employee working for me very long."

and,

"This year I did purposely ask to sit as a member of the management and labour group so that the union could understand that they were not only employees of the Board of Police Commissioners but employees of the Town as well, and that the Town actually were the ones that were paying their salaries, and that they were responsible to the Town."

These are, without doubt, reasonable statements which are applicable to most persons who are hired and whose salaries are paid by the Town. However, there has been a great deal of case law in both Canada and Britain, the source of our police service tradition, that points to the need for a different approach when a person is appointed by a town to a public office such as police constable.

In a judgement on an appeal to the Judicial Committee of the Privy Council, Viscount Simonds made the following observation which is often quoted in Canadian courts:

"...there is a fundamental difference between the domestic relation of servant and master and that of the holder of a public office and the State which he is said to serve. The constable falls within the latter category. His authority is original, not delegated, and is exercised at his own discretion by virture of his office: he is a ministerial officer exercising statutory rights independently of contract. The essential difference is recognized in the fact that his relationship to the Government is not in ordinary parlance described as that of servant and master."

In another case before the British Court of Appeal, Lord Denning, Master of the Rolls, made the following remarks relating to the Metropolitan Police Commissioner:

"The office of Commissioner of Police within the metropolis dates back to 1829 when Sir Robert Peel introduced his disciplined Force. ....His constitutional status has never been defined either by statute or by the courts. ......I have no hesitation, however, in holding that, like every constable in the land, he should be, and is, independent of the executive.

He is not subject to the orders of the Secretary of State, save that under the Police Act 1964 the Secretary of State can call on him to give a report, or to retire in the interests of efficiency. I hold it to be the duty of the Commissioner of Police, as it is of every chief constable, to enforce the law of the land. He must take steps so to post his men that crimes may be detected; and that honest citizens may go about their affairs in peace. He must decide whether or not suspected persons are to be prosecuted; and, if need be, bring the prosecution or see that it is brought; but in all these things he is not the servant of anyone, save of the law itself. No Minister of the Crown can tell him that he must, or must not, keep observation on this place or that; or that he must, or must not, prosecute this man or that one......The responsibility for law enforcement lies on him. He is answerable to the law and to the law alone."

The philosophy on policing which has evolved over the years and the resulting legal status of the police is taught in police colleges and academies and institutes of criminology. In this regard the Mayor stated, "I suppose perhaps the philosophy of policing that's taught by Holland College is different than policing as I know it in Kentville."

There were at least four instances related in evidence, (two of which are dealt with elsewhere in this report), where the Mayor took it upon himself to intervene directly with a police officer, usually the Chief of Police, with matters directly related to police operations. The Commission does not, in any way, question that the Mayor's intentions were not honourable. However, on face value, the Commission concludes that they were unlawful when measured against the legal status of the police.

The attitude of the Mayor is well known by all members of the police force and resented by most. The Commission considers it to be a potent factor in strained relations between individual police officers and "Town Hall", and a factor adversely affecting the morale of the Force. A philosophic re-alignment of thinking related to police services is required before this situation is likely to improve.

It is difficult to understand why the Mayor has chosen not to be a member of the Board of Police Commissioners. In other provinces, more often than not, the mayor is required by statute to be a member. By his own admission before the Commission, the Mayor is extremely interested in policing policy and in complaints against the police and, as a result, needs to place himself on the Board so that he can have a direct influence on these matters.

The Commission urges the Mayor to reconsider his stand and to agree to be a member of the Board. As will be discussed later, the position of Chairman of the Board is an onerous one and should be time-consuming. Because of his many other responsibilities, the Mayor need not present himself for election as Chairman unless he particularly desires to do so.

The Board of Police Commissioners

The Board of Police Commissioners of the Town of Kentville of five persons was constituted by by-law in 1977. The Chief of Police was appointed on August 1, 1978. Since the Chief of Police was appointed, 15 persons have served on the Board, of which two have been elected as Chairman up to the time of this Inquiry.

The Commission wishes to make two comments arising from these facts. First of all, the Chief of Police, in his testimony, complained about the attitude of confrontation which developed between the Board and himself. With such a rapid changeover of personalities on the Board, the Chief of Police must bear a large share of the responsibility for this attitude and this will be analyzed later in this section.

Secondly, such a rapid changeover of persons on the Board is not conducive to continuity nor the ability of the Board members to become familiar with their duties. Neither is it conducive to the development of a close rapport between the Board and the police department.

As was enunciated in the Background, the Commission considers that the Board of Police Commissioners has three main duties and responsibilities:

(a) To provide an adequate police force for the municipality, properly paid, trained, equipped, housed, and administered.

(b) To provide clear policy direction to the Force in the form of rules and regulations supplemented by additions and/or amendments from time to time as required.

(c) To play an active role in fostering good relations between the police and the public.

As was also stated in the Background section, these duties and responsibilities are relevant to the management and control of the Police Force. In the role of the police in enforcing the law the Board must rely on the Chief of Police and his officers to uphold and enforce the law. The Board cannot lawfully attempt to influence the police officers in enforcing the law.

In order to carry out its duties and responsibilities, the Board cannot do its job, nor can the Chief of Police do his job, unless there is a meeting of minds and the Board and the Chief work together as a team. The Secretary to the Board should have no place in this dialogue except to act as a facilitator and a keeper of records.

The evidence of Mr. C.R.G. Lowe, previous Chairman of the Board, concerning the Chief of Police, and of the Secretary to the Board, revealed a number of confrontations of a serious nature between the Chairman and the Chief of Police. The significant ones are the dismissal of Cst. Turner on completion of his probationary period; the controversy over the Lars Nichols incident of alleged police brutality; the charging of Eric Johnson alleging theft of a flare pot; the attempt by Mr. Lowe to suspend Cst. Thomas; and the controversy over the statement by Gregory MacLellan relating to the Murray Copage incident.

All of these reveal two personalities which clash with one another; two strong personalities whose emotions run high and who use strong, sometimes offensive, words on the spur of the moment. In the evidence presented to the Inquiry, there does not appear to have been any meeting of minds.

Testimony indicates that the relationship with the other Chairman, Mr. Marshall, on a person-to-person basis was much more compatible. However, some of the areas of confrontation that took place under the chairmanship of Mr. Lowe had left their mark on members of the Board. Councillor Buchanan's remarks on the drug situation in Kentville and the subsequent events which are described elsewhere in this report also kept the relationship between the Board and the Chief very strained.

Mr. Leonard White who had been a member of Council and a member of the Board from 1980 to 1982, came forward voluntarily. He was a very frank and credible witness.

When asked what the relationship was between the Board and the Council on the one hand and the Police Force on the other, he replied, "extremely strained". He went on to testify that by 1982 there was absolutely no trust between the Council and the Police Force.

He went on to say that criticisms of the Police Force were made at open Council meetings and extensively reported in the press. In speaking of these criticisms he said, "My personal feeling throughout my entire tenure on Council was that they (the Council) very definitely contributed to the ill feeling and the problems between Council and Commission and the men, yes. Very much so. I felt that a lot of the criticisms were petty; were very small in nature and yet they were blown out of proportion because they were sensational. The media certainly enjoyed reporting weekly on the running feud between Council and members of the Police Department. This, in turn, certainly affected public opinion. You know, it's very simple logic to me that .... in a small town if things are being reported negatively about one group of people week after week, that the public opinion is going to begin to be polarized in that direction and people are going to feel the same way."

He went on to say:

"I don't know if the members of Council who took it upon themselves to be concerned in that fashion and find things to be critical of, were doing it because of feelings that they had developed from relationships with the Police and because they felt the Police were doing things wrong or acting inappropriately or criticizing them, or it went the other way -- that the Police acted in probably a way that it was somewhat less than appropriate because of the criticisms they were receiving. You know, I have no way of knowing that. I tried to sort that out at the time, in my own mind, but I really never arrived at a point where I could feel that it was all because of this. In my mind, to put it very bluntly, the members of the Police Department did some pretty silly and stupid things....in carrying out their jobs. And they had a right to be criticized for some of those things, but if you're going to try and improve the relations there's a time and a place to deal with those things."

When asked about the relationship between the Chief and the Board and Council he said: "It was strained. It was uneasy .... it was very difficult to have open and frank discussion, once again, because it always appeared that things .... would not be fully disclosed. Discussions would not be full and complete. And that resulted in many lengthy discussions of matters that probably could have been dealt with much quicker if there was a better relationship between both sides."

He continued, "I certainly know from my experience that when decisions are made by the policy-making body, which is the Commission and the Town Council, that it would go a long way to improving their feelings about the Department if those policies were followed. That's one part of it. That it appeared to me that decisions were made, policies were adopted and they did not appear to be followed."

When asked what individuals were particularly involved in the matter of mistrust, he replied: "I perceived that the Mayor was mistrusted by probably all members of the Police Department and the Chief and I perceived that the Mayor mistrusted all members of the Department and the Chief. I perceived that Councillor Buchanan at the time was in a similar position. I perceived, that to a certain degree, that Councillor Lowe was in a similar position. Probably those are the main ones."

The Commission has visited many Boards and Chiefs of Police across Nova Scotia and in other Provinces. It is easy to determine in very short order those municipalities or regions where the Chief of Police and his senior officers and the Board are working together in harmony and as a close-knit team. The mutual respect is very visible for all to see and the policing services are provided by a loyal, dedicated group of police officers in the knowledge that they have the full support of their Chief, the Board, the Council and the public generally.

Regrettably, as has been demonstrated in the preceding paragraphs, the Commission found only a feeling of deep mistrust and confrontation in Kentville between the Board and the Department. The Commission considers that the low morale in the Department and the quality of police service are unlikely to improve unless the present situation is reversed.

The Chief of Police

It became apparent to the Commission, through the many times that he testified on the witness stand, that Chief of Police A. K. McRae has a very complex personality.

Chief McRae began his career in policing with the R.C.M.P. and purchased his discharge from the Force after serving 11 years. This is a practice common to the Royal Canadian Mounted Police and the Canadian Forces whereby trained personnel undertake to serve a certain period of time, in the Chief's case 12 years, and if they wish to retire before that period is up, they must pay the Crown a sum of money. Chief McRae stated that his reason for buying his discharge was a disagreement between himself and his Staff Sergeant.

Chief McRae returned to police work 7 years later in Wawa, Ontario, and progressed from Constable to Chief of Police. He left Wawa after 17 years on the Force (10 of which he served as Chief of Police), when he was selected for the position of Chief of Police for the Town of Kentville.

Five of the 15 members of the Board who had served during the Chief's term of office appeared before the Commission to give evidence. All five of them commented on areas of confrontation with the Chief of Police. The strained relations between Mr. Lowe and the Chief and the Department were commented on earlier. Mr. Leonard White's views on these relationships were also quoted.

Although the Chief of Police testified that he could discuss matters more freely with Mr. Marshall, the Chairman of the Board at the time of the Inquiry, Mr. Marshall certainly had reservations. At one point he testified that, "The Board and myself have very strong feelings with the way that the Chief comes down on the Mayor and Council at times. He has belittled the Mayor and some of the Councillors. The fact that he has stated that the Mayor has asked him to fix tickets on numerous occasions I think is quite wrong. I don't think he has ever been asked to fix a ticket. The Mayor has discussed a situation with him occasionally and to my mind that's not asking anybody to fix a ticket. It's just a discussion."

Mrs. Marion Ross, a Councillor, who was appointed to the Board in

November 1982 had this to say when she asked the Chief of Police a question on the training of school-crossing guards: "I must state that I was not prepared for the Chief's reaction to my very innocent suggestion because he became totally defensive, and sort of, I hate to use the description, almost jumped across the table, but that was the impression I got with his reaction at me."

Mr. Donald Hardy, who has been the Secretary to the Board since its inception, made this observation: "I know that I've heard members of the Board on numerous occasions. They almost have a feeling that when .... sitting around the Council table at Board meetings, on many occasions, ... as though the Chief is trying to put the fear of God into them."

He also said: "It was the attitude, the manner in which the Chief was, attempted to deal with the Board and I think that I personally found myself sometimes in a state of shock ... and I think perhaps the Board members were actually reacting in a state of shock because of some of the things that would be said. And I think it would leave the Board members speechless. And sometimes it would be after the meeting ... had adjourned that the Board members would approach me and say: 'Did I actually hear that guy correctly? Did he actually say this or that?'"

Dr. J. L. Rafferty, who was appointed to the Board in November 1982, had obviously spent some time in attempting to analyze the Chief of Police's character and personality and his relationship with the public, the Board and the Council. He testified: "In speaking with members of the public I would have to say they are very supportive of our Chief, they respect our Chief, they believe him to be the man capable and able of doing the job. I have heard no member of the public hear our Chief speak ill of our local Board of Police Commissioners. It has been positive. I have on the other hand seen myself a different person. I see a person who avoids relationships evidenced by the fact that I've heard the Chief himself state that a policeman has no friends. I've seen the Chief of Police be aloof. I've witnessed him at meetings having ego defense mechanisms working whereby he is very defensive if approached on matters. That if he is aware that a matter is going to arise he is prepared to answer to that matter in a way of self protection and it will be done by the next meeting. Withdrawal adaptive defense mechanism, I've seen that. He withdraws. He is in his office. He is unapproachable by the men. There is no communication, and a poor communication. Poor interpersonal communications. This doesn't make him nonfunctional but it provides for poor leadership, and I see a difficulty in that, and I asked myself the question many times -- why do I see this man one way and that citizens on the street see this man another way? And the variable of course is if I believe the man on the street, which I do, and which I believe myself, and I do, that the variable is the Chief himself. He is the variable. He presents himself in a different manner in a different way at different times for different reasons."

In their testimony, with the exception of Sgt. Young and Cst. Cooper, the other constables were guarded when asked questions about the Chief of Police. They acknowledged that he had some leadership ability and that he was supportive. With the exception of Cst. Murphy, and to some extent Cst. Morrison, they were reluctant to talk about their ability to communicate with the Chief. Cst. Murphy, although he denies it, was a favorite of the Chief of Police and had ready access to the Chief at all times.

Research into the testimony of Mr. Hardy, some exhibits, and the testimony of Sgt. Young and Cst. Cooper, reveals that the Chief of Police did have a serious communication problem with his men.

The Minutes of a Management Labour Relations Meeting of May 25, 1981, state as follows:

"Sgt. Young stated that the men have a lot of internal problems and that they come to him and he can't solve them. He went on to say that Constables Reade and Morrison are scared to death of the Chief. Chief McRae felt it was childish things they are viewing as internal problems and

Sgt. Young responded that he didn't view them as childish.

"Cst. Moore stated that the members won't say what they feel as they are scared the Chief might jump on them. Chief McRae stated that he will say what is on his mind. Sgt. Young went on to say that the men talk about something in particular but agree that they can't approach the Chief of Police with it.

"Cst. Moore suggested that rather than having a personnel assessment done once a year that it would be better if there was a short assessment after six months and that the officer would know where he stood. Moore went on to say that the guys are a little afraid to say what they think. He stated that there doesn't seem to be any future - there is no more opportunity. When the budget is being prepared, they would like to be somewhat involved and for example talk about going on a course. Sgt. Young stated that he has heard by rumor that there is no money in the budget for courses. The Chief responded that some members have just completed courses and others are slated to go but that he isn't going to advise them when they are going on course until he is certain that they can go. Cst. Moore stated that the men are not aware.

"Councillor Marshall suggested that the Chief should change his attitude and go at it in a little softer manner with the younger men. The Chief stated that he didn't know there was a problem except for rumors until tonight. He felt that these things were being handled by the N.C.O.'s.

"Sgt. Young stated that at a recent Union meeting that Cst. Murphy had said that if he had a problem he would go straight to the Chief of Police and that the other men had heard that statement, and it, therefore, didn't help things."

On December 6, 1982, the Chairman of the Board wrote to the Chief of Police. The following has been extracted from that letter:

"From time to time various members of the Board of Police Commissioners have been concerned about the apparent lack of good communications on your part within the Kentville Police Department. All too often, however, statements are made only to find that no one is prepared to stand behind them when corrective action is being considered. However, very recently two grievances were filed by two individual members of the Police Department and based on information tendered as these grievances were being delved into it became evident that you, as Chief of Police, are experiencing a bad communication problem in dealing with various members of The Department. Firstly, with regard to the Sergeant Young grievance. Although the written words in the grievance were aimed at a re-scheduling of shifts, upon examination it was determined that the real reason behind the grievance was due to lack of communications on your part. Sergeant Young stated if you had called him into your office and had discussed in a reasonable fashion the matter with him, outlining the reasons for the shift change that in all likelihood he would not have objected and thus, no grievance would have ensued. When the Young grievance came before The Board on November 8th, '82, you advised The Board that you had posted the October shift schedule and further had discussed the situation, twelve-hour shift on October 26th, '82, with Sergeant Young and that Sergeant Young was agreeable. Sergeant Young, however, stated that you did not discuss this with him. This is a real cause for concern considering the fact that The Board spoke to you at considerable length on November 8th, '82 concerning your lack of communication with Sergeant Young. There is no reason to disbelieve Young on this particular occasion. Secondly, with respect to the Constable Thomas grievance, through investigation it was learned that in all likelihood no grievance would have followed if you had called Constable Thomas into your office and conducted a mutual discussion with him outlining in a reasonable tone the reasons why you felt that he could not take a particular stat holiday. Once again, you demonstrated poor communication ability. The fact you chose to call Constable Thomas in your office after the grievance had been filed questioning why he had filed the grievance, it was the Constable's firm belief that although you asked the question that, in fact, you were not prepared to listen to him. It seems rather ridiculous to question a member as to why he filed a grievance to then bring the conversation abruptly to a close by stating: 'That's fine. I don't want to discuss it. You've put in a grievance.' Once again, this demonstrates very poor communications on your part. This whole episode undoubtedly could have been averted if you had discussed the Thomas request of October 18th in person when he returned to work on October 20th. It is understandable that for the record you should present the officer concerned with a written response but surely this must be preceded by a wholesome two way discussion."

Later on, the letter stated:

"The Board, therefore, directs that you initiate regular staff meetings immediately. Such meetings should be designed to encourage, good, open two-way communications."

In his testimony, the Chief of Police stated he held only two staff meetings. When asked why he did not follow the Board's direction he stated he held no more because at a Board meeting nine months later he was accused of collusion with the union.

The Chairman of the Board, over the years, sent several other letters to the Chief outlining what the Board perceived to be shortcomings in the Chief's performance. All of them commented on the lack of good communications between the Chief and his men.

Both Sgt. Young and Cst. Cooper gave evidence of the difficulty of having a rational discussion with the Chief. Sgt. Young testified that he approached the Chief of Police at the request of the men to suggest some shift changes. The Chief refused to listen and apparently made the comment, "if they didn't like who they were working with the unemployment office is over there".

Cst. Cooper testified, "The men couldn't go in the office and talk to the Chief of Police at all." He went on to say that any discussion would be a confrontation and that they would come out of the office "in a turmoil, kicking the furniture, kicking the side of the wall".

Both Cst. Cooper and Sgt. Young criticized the Chief for coming back after Board or Council meetings and speaking in a demeaning way about persons on the Board and Council and ridiculing them. They felt he was being disloyal.

Cst. Cooper related that shortly after he had returned to work after a long period of being off with a back injury, the Chief of Police told him that the Board were thinking of relieving him of his duties because of his medical problem. This upset Cst. Cooper and on visiting Mr. Hardy to have him sign a subpoena, he asked Mr. Hardy about it. Mr. Hardy showed him a copy of the minutes of the meeting which reported that the Chief of Police had recommended to the Board that Cst. Cooper be replaced.

In his testimony the Chief of Police criticized Sgt. Young claiming that he had asked Sgt. Young at the request of the Board to re-do the personal evaluation report on Probationary Cst. Kennedy. This request was made on a Tuesday and the Chief asked that it be completed and returned to him by Friday. However, the Chief felt it should have been completed on Wednesday. In any event he testified initially that the report was on his desk when he arrived at work on Friday morning. Later he changed his testimony and stated, "I told the Board that I was displeased because the assessment was returned to me at some time around 2 o'clock on Friday afternoon ..... and this did not allow me the time to either correct the assessment or to discuss it with Cst. Kennedy before it was required at the Board meeting." The Board met at 4:00 p.m. Sgt. Young claimed that he completed the report during his night shift on Thursday/Friday and placed it on the Chief's desk about 3:00 a.m. Friday.

Cst. Cooper was very upset with the Chief's testimony. He said, "it really hurt me to hear the Chief of Police say this because that was not true". He went on to state that the Chief had called him into his office at 8:30 a.m. on Friday, showed him the Cst. Kennedy assessment and discussed it with him. In fact, Cst. Cooper had assisted the Chief to numerically score the report. Cst. Cooper said the Chief was very upset that it scored so low.

The Commission concludes that for reasons known only to himself the Chief lied when he told the Board that he did not receive the Cst. Kennedy assessment until about 2:00 p.m. on the Friday when, in fact, it was on his desk when he arrived at work that morning.

When Chief A. K. McRae came to Kentville he found he had a department that was deficient in many ways. The record system was almost non-existent. The filing system had been neglected. Rules and Regulations and Administrative Orders had recently been put into effect. His predecessor had been good at communicating with the public but was an extremely poor administrator. Chief McRae brought to the Board the need to have school crossing guards at two points in the town. He was instrumental in improving the radio communications for the Department. He instituted a series of training aids which gave guidance to the men. As Cst. Cooper put it, "We all enjoyed his leadership at this time."

Not long after the Chief came to Kentville, Cst. Murphy read a breathalyzer demand to the Mayor after a Christmas party. The Chief quite rightly was not prepared to intervene. However, as a result of that incident the new Chief's relationship with the Mayor, some members of Council and the Board and the town administration declined sharply.

About the same time, the Chief had been counselling the union on matters that he felt they should have in their collective agreement based on his experience in Wawa, Ontario. His loyalty to management came into question.

Gradually, over the months to come, Chief McRae assumed a very defensive posture. If he was criticized by the Board, he reacted defensively. If he was questioned by his men, he reacted aggressively. This is very evident from the reaction of the Board, through a succession of Members, to the Chief; and from the minutes of MLR meetings and other evidence before the Commission.

Although there is no question that Chief McRae made some excellent improvements to the Kentville Police Department and made significant advances in the administration and management of the Department, there was one aspect of his ability as a manager that continued to plague him.

Chief McRae was criticized for bringing reports to the Board that had factual flaws in them. Mention will be made of several of these. However, at the outset, the Commission has looked carefully at all of the allegations of incomplete or erroneous reports made by Chief McRae and has concluded that he manufactures the 'truth' moulding it to what he would like it to be.

The Board and town administration complained of a number of inaccurate reports submitted to them by the Chief. In a matter involving Leverett Avenue he gave the wrong width of the street. In his preliminary budgets, he had a habit of leaving out expenses such as the cost of the answering service which were unavoidable. When he put forward a proposal for a court liaison officer, he misrepresented the practice in Nova Scotia that court security is provided by the Sheriff's Department and he, also, overstated the cost of the overtime that would be saved by employing such an officer. In a statement to the Board and in his report on statistics to the Nova Scotia Police Commission he decided not to report himself as a regular member of the Department. When confronted with the problem of damage to parking meters he stated the damage was about $200 but later had to report that it was actually $3720.

Prime examples of the obfuscation of the truth by the Chief of Police were the allegations he made, by way of a threat, of indecent assault and obscene telephone calls by members of the Council.

During his time as Chief of Police of Kentville up to the Inquiry, Chief McRae had not disciplined any of his men for disciplinary defaults under the Code of Discipline in the Regulations made under the Police Act. In his own testimony he has admitted that he shied away from this because he felt it was too complicated. Yet in the evidence presented to the Commission, there were three incidents which should have been the subject of investigation to determine whether disciplinary defaults had occurred or not. The first was whether Cst. Murphy was justified in striking Mr. Fraser Hebb or not. The second was the action of Cst. Thomas in tripping Mr. Timothy Purchase. The third was the altercation between Mr. Anthony Clements and Cst. Murphy.

The Chief of Police in his own evidence testified that he was more comfortable, when he perceived that the men had committed a disciplinary default or had acted improperly, "to go up one side of them and down the other". While this is a way of informally and verbally chastising, it is not the acceptable way of applying discipline in a well-run police force. As testified by Cst. Cooper: "We're not getting discipline and we all need discipline, and I believe that he can't discipline us."

As a result of all of this analyses and evidence, the Commission has before it the picture of a very complex person, knowledgeable in the law and duties of police officers, very strongly opinionated, very defensive when criticized, disloyal to his superiors, prone to blame his juniors for departmental problems and some of his own shortcomings, with a tendency to strive to dominate any meetings he attends, who has difficulty in controlling his emotions, who is reluctant to discipline his officers, and, who has a difficulty in realizing that he cannot manufacture the 'truth'.

Other Members of the Force

As will be apparent from other sections of this report, a number of the members of the Kentville Police Force made mistakes or reacted too strongly in certain situations. It is expected that they learned from their experience. The Commission considers that most of them would react very positively to good leadership. The officers must recognize that their first duty is the prevention of crime. This implies a good understanding of their community and a desire to work with the community to ensure that the Queen's peace is seldom broken. If it is broken, each officer has a discretion to decide what should be done in the interest of the community and the law. All should, at all times, bear in mind the philosophy of policing presented in the Introduction, especially the guidance enunciated on pages 5 and 6 of the report.

Apart from what has been said in other sections of the report, no further mention will be made of most of the police officers. However, because of matters which the Commission perceives as being of a serious nature, this section of the report will comment on Sgt. Young, Cst. Murphy, Cst. Morrison, Cst. MacIntyre and Cst. Thomas in that order.

Sgt. Fred Young

The genesis of this Inquiry occurred when the Chief of Police persuaded the Board in May 1983 to request that the Nova Scotia Police Commission carry out an investigation concerning the work and conduct of

Sgt. Fred Young. Later, the Inquiry was broadened to include the whole of the Police Department.

When Chief McRae assumed the position of Chief of Police in 1978, Cpl. Young was the acting Chief of Police. In both of their testimonies, and that of others, there was a close rapport and the two of them spent many hours familiarizing the new Chief of Police with the town and its people. Chief McRae thought so highly of Fred Young at that time that he recommended him for promotion to sergeant and accepted him as his second-in-command.

The co-operation and good feeling between Sgt. Young and the Chief lasted until 1980. During that year, Sgt. Young testified that the Chief of Police began having problems with the Council and Sgt. Young said the Chief told him that the Council was trying to fire him.

From that time on Sgt. Young's relationship with the Chief declined. The Chief began to confide in Cst. Murphy much more than in Sgt. Young. Sgt. Young stated that he would hear from some of the men that the Chief had been criticizing him about his work or for things that the Chief felt he should have done. Sgt. Young said that the Chief had never told him what he thought was wrong with his performance. He only heard from others. The Chief appeared to be deliberately undermining Sgt. Young's authority in the eyes of the men.

Sgt. Young said he was upset with the procedure used in purchasing and fitting the shotgun in the van, in the training on the shotgun and in the construction of the exhibit lockers. The Chief gave all of these jobs to Cst. Murphy. Sgt. Young said he didn't mind Cst. Murphy being given the jobs but he was upset because the Chief did not discuss these matters with him beforehand. He only found out from the men, when a memo arrived in his 'bunk', or when the lockers arrived at the station. He felt slighted. He was also upset because the Chief would consult Cst. Murphy on the selection of applicants suitable for hiring on the Force but did not seek his counsel and comments.

Sgt. Young's respect for the Chief was adversely affected by the Chief coming to the office after meetings with the Board and/or the Council and ridiculing members of those two bodies. He felt that progressively the Chief turned the men against the Board and Council.

Communications between the Sergeant and the Chief became strained. Sgt. Young said it became difficult to have a rational discussion with him. It came to the point where the Chief would not deal with Sgt. Young on matters affecting the men but wanted them to go directly to him. This reduced the respect of the men for him.

Sgt. Young, from the Minutes of Board meetings and scuttlebut, found out the Chief was using him as the whipping boy for the Department. Errors or things not being done were blamed on the N.C.O., but the Chief would never discuss them with Sgt. Young. It began to appear that Sgt. Young was accountable for most of the Department's deficiencies that were raised at the Board meetings.

Finally, the Chief persuaded the Board to pass a motion requesting the Nova Scotia Police Commission to "carry out an investigation concerning the work and conduct of Sgt. Young".

Much of the evidence presented by Chief McRae and a number of his police officers was directed at Sgt. Young's inability to perform his duties. This evidence was certainly unflattering, however, upon analysis the bulk of the complaints about Fred Young were extremely petty in nature; e.g. watching television or movies while on duty, taking too many coffee breaks, etc. The evidence presented against Sgt. Young appeared to be extremely well orchestrated and left one with the suggestion that Sgt. Young was being used as a scapegoat for the inadequacies and problems which beset the Police Department.

The evidence tended to indicate that on occasions when Sgt. Young was in charge of the Police Department (and Chief McRae was on sick leave) the Department and its members performed their duties adequately without problems. This fact would tend to confirm that Sgt. Young may well bear only a small portion of responsibility for the problems of the Police Department. It is apparent that many of Sgt. Young's weaknesses could have been alleviated had Chief McRae provided the direction that was needed instead of providing misdirection. It appears that Sgt. Young's authority as second-in-command was constantly usurped by the Chief. Sgt. Young did not appear, however, to have the ability to overcome this obstacle or to stand up and exercise his authority. Certainly his personal approach to this problem was inappropriate. He did not appear to have the intestinal fortitude to do so.

Sgt. Young could understand that some of the men might lose respect for him given the way he was treated by the Chief. It was evident that the Chief was going around the Sergeant and treating Cst. Murphy as if he were an N.C.O. and the men could not fail to realize that Sgt. Young had little influence on what happened in the Department.

Sgt. Young gave evidence regarding his duties as an N.C.O. and what he perceived them to be. Consistent with other "problems" that Sgt. Young supposedly had, he had never heard of any dereliction or omission of duty on his part until the Inquiry. In April of 1983, just a month before the Inquiry, the policy had been set down that there were to be weekly meetings between the Chief and Sgt. Young as a method of improving communications. He had one such meeting and no more.

Evidence was presented to the Inquiry which called into question Sgt. Young's abilities as a supervisor. The Commission has criticized the Chief of Police for not disciplining the men. Sgt. Young, as second-in-command, did not lay any charges of disciplinary defaults against the men even though he knew of a number of acts which probably should have resulted in allegations of disciplinary defaults. In the Miss Susan Ogilvie incident, Sgt. Young was informed by Cst. Reade of the inappropriateness of Cst. Murphy's actions. Apparently he did nothing about it. Sgt. Young commented that he considered that Cst. Murphy was a racist. Apparently he did not chastise the Constable for this attitude nor did he give any indication that he considered laying a disciplinary default because of Cst. Murphy's racist statements.

The Inquiry heard evidence on two episodes which reflected poorly on Sgt. Young. In the Wayne Vaughan incident Sgt. Young testified before the Inquiry that after he had arrested Mr.Vaughan he took him in the police car to the vicinity of the police station where he picked up Cst. Thomas and they then proceeded to the County Lock-up. Before the Court, Sgt. Young testified that he took Mr. Vaughan to the police station where Cst. Thomas joined them and where he read him a breathalyzer demand which was refused. The three of them then proceeded to the County Lock-up. This discrepancy in his evidence was commented on earlier in this report.

The Inquiry heard evidence of an incident where a dog had bitten a young boy. Mr. A. Hartlen, the boy's father, telephoned a complaint, which was received by the police secretary, about the incident and wanted something done about the dog. The complaint was entered in the occurrence book. Sgt. Young, who was on duty, came into the office late that afternoon and shortly afterwards Mr. Hartlen appeared at the counter in the front office. Sgt. Young greeted him and Mr. Hartlen began telling Sgt. Young about the dog incident. Sgt. Young had to look in the occurrence book to find the record of Mr. Hartlen's complaint which had been referred to Special Cst. Benjamin, the animal control officer. Mr. Hartlen wanted to know what was going to be done about the dog. Sgt. Young gave Mr. Hartlen Special Cst. Benjamin's telephone number and left a note for the Special Constable, as both he and the secretary had left for the day. Sgt. Young took no further action. He worked the next day, then proceeded on his four day's off. The dog that had bitten the child was not dealt with until a week after the incident. This showed a lack of attention to detail and a casual attitude on the part of Sgt. Young to his duties of supervising personnel junior to him.

In summary, on the basis of the evidence and its own observation, the Commission formed the impression of Sgt. Young as a sloppily-dressed person who is overweight; who lacks leadership and supervisory capabilities; who is too familiar with the junior men and unable to discipline them; who does not command the respect of those junior to him; who has a casual attitude toward his duties as a supervisor which causes him to lose the respect of the constables working under him on a shift.

The position as second-in-command is never an easy one. The person in that position must be loyal to the Chief of Police and, at the same time, loyal to the men under him. He must support his Chief in as many ways as he can. He must be able to stand back, observe the men, give them guidance when they need it, lead by example, and initiate disciplinary action if this is required, yet he must be prepared to work with any of the men as a partner on a shift.

Certainly the Chief of Police gave Sgt. Young little assistance. In fact he gave none at all. He criticized Sgt. Young's performance yet did not counsel him on what he perceived to be Sgt. Young's shortcomings and undermined his position as second-in-command by dealing directly with the men and criticizing Sgt.Young to the men. Sgt. Young was unable to cope with this situation.

In many ways Sgt. Young appears to be well suited as a police officer in Kentville. He has an excellent knowledge of the town and its citizens and displays a genuine concern for their well being. He appears to have the courage to face up to difficult situations. He has an ability to talk to prisoners and calm them down. However, these good qualities must be weighed against his poor performance as a leader and supervisor. Even with better leadership, the Commission is not convinced that Sgt. Young has the inherent ability to be a dynamic, self-motivated, confident second-in-command.

Cst. David Murphy

The Inquiry heard evidence on 19 complaints on the conduct and performance of duty of Kentville police officers. Cst. Murphy was involved in 11 of these complaints, more than any other member of the Force.

These incidents were analysed in this report and findings made in each case. In five of these incidents the conduct of and/or performance by Cst. Murphy are criticized:

(a) In the Susan Ogilvie incident, the Commission made four findings, all of which involved Cst. Murphy, the most important one being that "Cst. Murphy's behaviour in the Ogilvie matter is unworthy of a police constable in the performance of his duties."

(b) In the Fraser Hebb incident, the Commission found that "regardless of the nature and force of the blow administered by Cst. Murphy, and acknowledged by him, this act by Cst. Murphy constituted an assault upon the person of Mr. Hebb while in his custody, and was an unprofessional act".

(c) In the Anthony Clements incident the Commission made six findings, all of which involve Cst. Murphy. Two of them are quoted in part here. The first finding is that, "The racial remarks of Cst. Murphy cannot be justified under any circumstances. Such conduct brings discredit to the individual and to the position of police officer." The second is that "Cst. Murphy's conduct in this instance falls far short of the standard expected of police officers serving the Town of Kentville."

(d) In the Douglas States incident the Commission made two findings, portions of which are quoted. The Commission found that "Cst. Murphy used unnecessary force against Mr. States at the County Lock-up"; and that "Cst. Murphy's approach in the entire matter was unsatisfactory".

(e) In the David Schofield incident the Commission found that, "either Cst. Murphy or Cst. MacIntyre struck Mr. Schofield on the head with some object heavy enough to cause mild concussion, thereby committing assault."

For many years Cst. Murphy has been the subject of much controversy in Kentville. At one time he had a drinking problem. On too many occasions he has probably used unnecessary force in his handling of prisoners. He harbours personal feelings of contempt toward people prone to involve themselves in criminal conduct. He is more interested in law enforcement than he is in the prevention of crime, even though the latter should be his first priority. Cst. Murphy has some racial prejudices against black people. His personal behaviour has not been above reproach, however, the Commission received the impression that some improvement has taken place during the last two or three years.

Over the years, Cst. Murphy has built up a strong dislike for the Mayor, most members of Council and the Board and the town administration.

Cst. Murphy appears to have been "his own boss" from the day he first arrived on the job. The evidence indicates that, even when he was the partner of a senior officer, he did as he wished and, indeed, occasionally had the corporal that was his partner "check the doors". He seems to have had little guidance from the Chief of Police and none whatsoever from N.C.O.'s. He is a leader, but there appears to be some undercurrent in the evidence leaving the impression that he leads in the wrong direction.

Cst. Murphy has a vindictive streak in his character. He has laid charges against the head of the Kentville Electric Commission, the Superintendent of Public Works for the town, and the Mayor. In the latter incident there was evidence that Cst. Murphy had established a "hit list" of persons he intended to get for impaired driving infractions if he could. Mayor Phinney's name was on his list. Another incident which shows his vindictive nature was when he declined to assist Susan Ogilvie to seek shelter late on a cold winter night and then when she began driving her car, stopped her and she was given the breathalyzer demand. Because of his reputation the town's people, especially the younger citizens, fear him.

On the other side of the coin, Cst. Murphy has matured in his 11 years on the Kentville Force. It was clear from evidence that he is a good and a tireless investigator who much prefers to work alone.

It is notable that both his N.C.O., Sgt. Young, and Cst. Cooper consider him to be the root of many of the problems in the Department and a bad influence on the other constables. They recommend that he be dismissed.

On the totality of the evidence there is some value in Cst. Murphy as a peace officer. On the other hand, his philosophy of policing, his lack of interpersonal communications, the attitude of fear he generates in people especially the young adults, his racial prejudice, his dislike which borders on contempt for most of the elected and appointed officials of the town all raise serious questions as to whether he is in the right vocation. The Commission will make a recommendation respecting Cst. Murphy in the final section of this report.

Cst. Bryan Morrison

As a result of his appearances before the Inquiry as a witness on six occasions, the Commission has become concerned about the suitability of Cst. Morrison to be a member of the police profession.

Cst. Morrison was not a good witness. His evidence, more often than not, was selective and on occasion contrived. The Commission has little confidence in the truthfulness of some of his testimony. The evidence of Dr. Rafferty and that of Cst. Morrison on conditions in the Department, on Probationary Cst. Kennedy, and on the ability of the Chief of Police to perform were diametrically opposed. The Commission believes the evidence given by Dr. Rafferty over that of Cst. Morrison. The Constable also gave evidence of conversations with Sgt. Young in which he stated that the Sergeant had discussed with him the shortcomings of the Chief of Police and wondered out loud if it would be possible to have him removed. On the other hand, Sgt. Young testified that it was Cst. Morrison who raised the subject, urged him to approach the Board and wondered whether a non-confidence motion in the Chief by the union would have any effect. Again, the Commission is inclined to accept the testimony of Sgt. Young over that of Cst. Morrison. Further, his testimony on the David Ettinger incident left many question marks in the minds of the Commission. His testimony, to say the least, was not very professional.

When it comes to police work, as one witness put it, "he likes his job ....it's the work he hates. He doesn't like physical encounters with people that he has to arrest, he has a tendency to be scared." This general attitude came through quite clearly in the evidence Cst. Morrison gave in the Murray Copage incident. Cst. Morrison must develop more confidence in his ability to control people through talking with them but if, all else fails, through physical contact.

Cst. Morrison has been described by some witnesses as an inveterate complainer, especially about what he perceives to be equipment deficiencies. Perhaps it is as good thing that he does this but the Commission obtained the impression that some of his criticisms were not justified and others were matters which did not affect, appreciably, operational efficiency and could not be rectified until funds were available.

At one point in his testimony, Cst. Morrison stated, "As far as I'm concerned, there'd be nobody in the administration of the Town of Kentville that I would trust with anything". This harsh statement, regrettably, was typical of other comments that Cst. Morrison gave relating to his experiences with 'Town Hall', especially relating to Management Labour Relations meetings and encounters with some members of the Board and Council. Such an attitude cannot be allowed to continue if the atmosphere of confrontation between the Board and Council on the one hand, and the members of the Force and the local union on the other, is to be defused and turned into one of co-operation and mutual trust, as it must.

Cst. Morrison, on being asked about the morality of running persons' names through the CPIC terminal in a random fashion, replied "they may be offended but there's no consent needed to run anybody's name on the CPIC, no consent whatsoever ... I've done this, I'll sit down in the office on a day shift and I might run 50 names through that computer". This attitude appears to be a flagrant violation of the policy directive put out on CPIC by the R.C.M.P. which states, "The intent of this directive is to serve the needs of the law enforcement and security community and protect the privacy of the individual" (emphasis added). While CPIC is covered in a separate section of this report, a sentence from that section is repeated. "It would be ironic indeed if the technology used to provide security for our nation should be abused by those entrusted with its operation."

Cst. Morrison has done some good police work for the Town of Kentville. He appears to carry out his police duties faithfully, energetically and effectively. He was one of two constables that rescued persons from a house fire. He is entrusted with the operation of the school relations program and some crime prevention programs by the Chief of Police. He is smart in appearance and well turned out. However, these inherent capabilities that he possesses must be weighed against his major attitudinal problems.

Cst. Augustus MacIntyre

Cst. MacIntyre gave evidence before the Inquiry on five occasions and was involved in four incidents that came before the Inquiry.

Cst. MacIntyre sprayed Gerald Kynock with mace in the County Lock-up. The Commission does not consider that the use of mace was justified under the circumstances.

Cst. MacIntyre placed Timothy Purchase against the police van and ordered him to empty the contents of his pockets onto the seat of the van. The Commission does not consider that the Constable had reasonable grounds on which to order this search.

Cst. MacIntyre was involved in the arrest of David Schofield and Wade Calnek. The Commission found that either Cst. MacIntyre or Cst. Murphy struck Mr. Schofield on the head with an object hard enough to cause a mild concussion and, thereby assaulted Mr. Schofield. The Commission also found that the strip searches conducted on Mr. Schofield and Mr. Calnek at the County Lock-up were not justified.

Cst. MacIntyre was involved in the arrest of John O'Brien. While the performance of duty of Cst. MacIntyre was satisfactory on this occasion, the Commission found that his testimony on both direct and cross-examination was very selective. In fact, on all of the other occasions mentioned above, the Commission was not impressed by the testimony given by this officer.

The Commission believes that Cst. MacIntyre has an officious attitude in at least some of his dealings with the public. This was apparent in the incident mentioned above with Timothy Purchase. This officer needs to take to heart the guidelines for police officers on pages 5 to 7 of this report. In particular, he must realize that his first priority is the prevention of crime and not the enforcement of the law.

Most of the incidents referred to above occurred when Cst. MacIntyre was a new, inexperienced constable on the Force. It is expected that he has learned from those experiences. The Commission is concerned, however, with his attitude toward the use of mace, toward the public generally and toward the priorities he gives to his duties as a police officer. The

Commission considers he is badly in need of counselling and guidance by his superiors.

Cst. Calvin B. Thomas

Cst. Thomas appeared before the Inquiry six times as a witness, five of them associated with incidents involving complaints by members of the public. In three of the incidents the conduct and/or performance of duty of Cst. Thomas were criticized.

(a) In the David Ettinger incident, the Commission made two findings, both of which are quoted here, that "Cst. Morrison and Cst. Thomas misrepresented the facts, either intentionally or unintentionally, when they testified that they did not made a side trip to the County Lock-up while they were taking Mr. Ettinger to the New Minas Detachment for a breathalyzer test" and "The credibility of the testimony of the two police officers concerning the handcuffing and the beating of Mr. Ettinger at the New Minas Detachment of the R.C.M.P. is in serious doubt."

(b) In the Timothy Purhase incident the Commission found that "Cst. Thomas, off duty at the time, acted improperly when he tripped Mr. Timothy Purchase when they passed one another on the street. His action reflects badly on himself and the Kentville Police Department."

(c) In the Stephen Wagner incident the Commission found that, "it was disturbing that the testimony given by Sgt. Young and Cst. Thomas before this Inquiry differed so markedly to the evidence given before the Court."

The Commission was very concerned about the quality of the evidence given by Cst. Thomas in two of these incidents. It was certainly self-serving and raised serious doubts about his credibility as a witness. Cst. Thomas' action in the Timothy Purchase incident was inexcusable and was admitted by Cst. Thomas. He also admitted that he agreed to fight Timothy's brother, Arthur, over the incident. Fortunately, reason prevailed.

In his lengthy testimony before the Inquiry on conditions in the Police Department, it seemed that Cst. Thomas' first priority is law enforcement. For example, in his defence of the 12-hour shift, one point he made was that, "when the traffic is the heaviest .... the policemen aren't changing shifts so the policemen are still out there and they can get more traffic violations because of the heavier volume of traffic." Cst. Thomas needs to change his priorities.

The Commission is concerned that Cst. Thomas is not more forthright, frank and factual as a witness; that he, apparently, considered that tripping Timothy Purchase was acceptable conduct on his part; and that his policing priorities need to change. The Commission considers that Cst. Thomas is in need of counselling and guidance by his superiors. He needs to take to heart the basic tenets of sound policing which were outlined in this report starting at the bottom of page 5 and continuing on page 6.

Kentville Police Association

Minutes of four Management Labour Relations meetings were entered as exhibits covering the period 1980 to 1983. The contents of these minutes, albeit in capsulated form, reveal the feeling of frustration, hostility and, in general, the bad blood that existed between the Board and Council members present and the Association representatives.

In evidence it was suggested that MLR meetings allow those present to vent a lot of their frustrations. No doubt they serve as a good safety valve. However, the Commission was deeply concerned about the animosity revealed by the minutes. Many of the police officers gave evidence that, in their minds, MLR meetings were a waste of time.

The Commission acknowledges that there are bound to be 'beefs' and differences of opinion at such meetings but in Kentville the tenor of the minutes indicate that the rancour which was aroused goes far beyond that.

The question of seeking means to improve the relations between the members of the Police Department and the Board and the Council have come up elsewhere in this report in several places. The Commission considers that Management Labour Relations meetings could be made more productive and meaningful if they were held on a regular schedule and controlled through the medium of an agenda. It is in the interest of the Board, the Chief of Police, and the Association to work together in a co-operative way to improve these meetings.

Evidence before the Commission, also, indicates that there has been a major breakdown of communications between the Chief of Police and his men. The Association was by-passing the Chief of Police and sending grievances directly to the Chairman of the Board. Matters were being the subject of grievances which should have been amenable to resolution by discussion with the Chief of Police. The attitude of the local Association appeared to have come to the point where any question which arose would be the subject of a grievance. The Commission considers that the grievance chain must not be broken. In the first instance every grievance or perceived grievance must go to the Chief of Police. Only if he cannot resolve it to the satisfaction of the grievor or, for some reason, chooses not resolve the grievance, should it go to the next step, which should be to the Board.

The Association has an important role to play in the functioning of the Kentville Police Department. In addition to bargaining for reasonable salaries and benefits for its members, the Association must concern itself with working conditions, training for its members, and many other matters. It is important, however, that the Association be an integral part of the Police Department team. The Board sets policy, the Chief of Police puts policy into effect, provides leadership and provides management to enable the Department to run smoothly. The other members do the work that is required to provide the best type of policing services they can for the citizens of their town. The Association must be ever vigilant for the welfare of its members, but if the overall team is a good one, which it should be, things should run much more smoothly than portrayed to this Inquiry.

Town Administration

The two members of the town administration that have most dealings with the Police Department are the Administrator and the Director of Finance.

The organizational chart of the Town of Kentville shows that the Chief of Police reports to the Board of Police Commissioners through the Administrator. The Commission considers that the Chief of Police should report directly to the Board. As has been enunciated elsewhere in this report, the Chief of Police is accountable to the Board for the control and management of the Police Department and to no other body or individual. The secretary to the Board, who is also the Town Administrator in Kentville, should be a valuable link between the Board and the Chief. The Board is, after all, a group that meets only periodically. The secretary is, also, a facilitator and the keeper of the records. In this regard the Commission was astounded at the plethora of memoranda that appeared in the exhibits presented at the Inquiry addressed from Mr. Hardy to the Chief and noted the frequency with which he gave suggestions and instructions to the Chief which should not have been his prerogative and many of which did not appear to have the sanction of the Board. However, the Commission is mindful of the dreadful state of confrontation, mistrust and lack of co-operation that the evidence showed existed between the Board and the Chief. Perhaps that was the only way that these matters could be communicated under the circumstances, but this should not have been the case. The Chief of Police, if he was not doing his job, should have been called to task by the Board in a rational, logical way; and if the Board's policies were not carried out to their satisfaction, Council should have been asked to dismiss the Chief.

The organizational chart also shows that the Board of Police Commissioners is inferior to the Town Council. The Board of Police Commissioners is a body which municipalities with their own police forces must establish under the Police Act and it is a creature of this provincial statute. The Act gives a municipality some latitude in deciding the make-up of the Board. In Kentville, the Council has decided that four of the five members of the Board will be appointed by the Council; three being Councillors and the other a citizen-at-large.

The Police Act does not spell out in detail the function of the Board but it does attempt to establish that once the Board is in place, it functions independently of the Council except for, in the case of Kentville, three matters: the annual police budget; the appointment of the chief of police; and the appointment, promotion and dismissal of members of the Force. In fact the Kentville by-law establishing the Board (chapter 35) purports to specify the duties of the Board relating to the operation of the Department and states that the Board has these responsibilities, "without interference from the Council".

Another matter that the Commission strongly disagrees with is that the Administrator and the Director of Finance, the latter in his role as Personnel Officer, should have been given the authority to write the personnel evaluation report of the Chief of Police. The Chief of Police is accountable to the Board of Police Commissioners and the Board alone. It should be one of the responsibilities of the Chairman to write the personnel evaluation report with the help of his colleagues and, albeit, also, some help from the secretary. However, this is a responsibility which this Commission considers the Board cannot delegate.

The Director of Finance described a procedure whereby department heads should render unto him their preliminary budgets for his consideration and judgment before they are put forward to any other body. The Commission considers that under the Police Act it is the responsibility of the Board to work with the Chief of Police to develop the budget of the Department. In this regard the Board must act responsibly, as must the Chief of Police, to ensure that they produce a reasonable budget. It may be necessary to consult with the Director of Finance but he should not have any veto powers. Again, the responsibility of the Board and the Chief as defined in the Police Act is to develop a budget for the Police Department which in their judgment is reasonable and sound and the Board cannot delegate this responsibility.

The Commission considers that corrective action on the matters contained in this section would go a long way to reduce the tension, the friction and the lack of co-operation that exists currently between the Town Administration and the Police Department.

ACCOMMODATIONS FOR THE POLICE DEPARTMENT

The accommodations of the Kentville Police Department leave much to be desired.

The police station is located in the basement of the Town Hall. Public entry is through a side door in a narrow alleyway between the Town Hall and the Maritime Telegraph & Telephone Company building. To gain access, it is necessary to walk up several steps, enter through a doorway to a landing between the basement and the main floor (the main floor is raised above street level), then descend a number of steps to the basement. Access to the Police Department would be difficult or impossible for handicapped or infirm persons.

The public reception area is separated from the office proper by a counter and a gate to restrict access. If two or three persons were in the reception area at the same time, access to the police offices would be difficult.

The work station of the departmental secretary is contained in a cramped, confined area. This area is visible to the public as well as the staff of the Department and is in the most evident need of redecorating, which should include replacing the plaster that has fallen from the ceiling and/or floor support beams.

The office of the Chief of Police is too small to receive more than two persons at one time. Like the rest of the facilities, it is poorly furnished.

Facilities for the storage of stationery supplies, exhibits, equipment and personal lockers are inadequate in that they are, for the most part, contained in the work area of the N.C.O. and constables; or in the case of filing cabinets, in the passageway between the front and rear office spaces.

Interview rooms, identification labratory and breathalyzer facilities are inadequate or non-existent.

Office facilities are not available for the sergeant or the presently vacant corporal/investigator position. The very nature of their duties and responsibilities dictates the need for some privacy.

The Commission recommends that the Board of Police Commissioners explore the feasibility of either:

(a) Expanding the police offices within the present location, including extensive redecoration from floor to ceiling, and at the same time, refurbishing and/or replacing furnishings as required; or

(b) Relocating the Kentville Police Department to more suitable accommodations.

WORKLOAD AND MANPOWER REQUIREMENTS

A review of the crime statistics as reported to Statistics Canada on Form "C", which does not include traffic-related offences, for the period 1978 to 1983 does not reveal an excessive workload for a department which has averaged 10 - 11 regular members over this time.

From January 1, 1978, to December 31, 1983, a total of 3705 'actual' offences were reported to Statistics Canada. This would represent a yearly average of 617.5 offences. The actual totals for these years were:

1978 - 606
1979 - 772
1980 - 651
1981 - 634
1982 - 566
1983 - 566

Liquor offences have consistently accounted for the largest percentage of the individual reporting category groupings. Liquor offences as a percentage of the annual totals were:

1978 - 49.7%
1979 - 47.2%
1980 - 36.6%
1981 - 53.6%
1982 - 49.6%
1983 - 42.1% .

The breakdown of the 1983 offences into category groupings revealed that, of the 566 actual Form "C" offences, 17 or 3% were crimes of violence; 230 or 40.6% were crimes against property; 66 or 11.7% were other Criminal Code offences; 15 or 2.7% were cannabis offences; and 238 or 42% were liquor offences.

Notwithstanding the multiple offence rule for reporting crime statistics on Form "C" and assuming an average regular member strength of 10, the average caseload per member, excluding traffic-related offences, has ranged from 56.6 to 77.2 in the six year period.

These ranges in the workloads are classified as moderate at the lower end and as acceptable at the upper end.

Before addressing the manpower requirements in Kentville, the Commission wishes to make the following comments to the Board. Avenues should be explored to improve the administrative and operational efficiency of the Department. The following suggestions are made:

(a) One-man patrols should normally be used to expand the police visibility in the community. Two-man patrols should only be permitted in special situations.

(b) The Chief of Police should devote more time to operational and less time to administrative duties. Many administrative functions should be delegated to other members.

(c) The sergeant's hours of work should be somewhat different from those of the Chief in order to extend the senior officer presence beyond the 8:00 a.m. to 4:00 p.m. time span. Coverage by the two senior members should be provided during known peak activity hours such as statutory holidays, week-ends, and evenings. In other words, there should be flexibility in the duty hours of the Chief of Police and the sergeant.

(d) The investigator by the very nature of his duties should be on flexible hours. In defining the duties of the investigator care should be taken not to exclude the patrolmen from investigative functions as this provides some diversion from the normal often mundane routines associated with patrol duties.

The Board should consider establishing an auxiliary police component. Two or three persons by whatever designation -- auxiliary constable, spare constable or special constable -- could provide manpower during heavy activity periods, and as replacements for members on sick leave, vacation, training courses, etc. Many graduates from the Atlantic Police Academy who have been unable to find permanent employment with a police department have served other departments in this manner.

The Board should consider increasing the secretarial component by one person, either part-time or full-time, to provide coverage for some of the evenings and week-ends. This second position should be employed primarily to prepare reports for members, CPIC checks, etc., thereby decreasing the amount of time that members need to spend in the police office while on duty.

A by-law enforcement officer should be retained; however, there should be more supervision and accountability to the Chief of Police than has been demonstrated during this Inquiry. The duties of the by-law enforcement officer should be defined in writing quoting the titles of the by-laws he is required to enforce. His duties should not extend beyond the by-laws of the Town of Kentville.

There are a number of factors which need to be taken into consideration in arriving at manpower requirements for a police department. One is the caseload per member and this has already been addressed. However, this factor needs to be approached with some caution when it is remembered that the first priority of policing is the prevention of crime before law enforcement. Another factor is the equation which has been worked out that it takes 5.8 members to have one member on patrol 24 hours a day. This equation takes into account administration, supervision, vacations, training courses, statutory holidays and other reasons for absence from duty. It makes allowance for a minimum of overtime. This number can also be effectively reduced by the use of part-time members. Another factor that is sometimes used is police to population ratio of regular members. An overriding factor is the level of policing services desired by the governing authority.

The Board should take all of these factors into account when arriving at a decision as to the number of members the Kentville Police Department requires.

The Nova Scotia Police Commission considers that the minimum regular police strength of the Kentville Police Department should be 11, distributed as follows:

Position	Number	Rank
I/C	1	Chief of Police
2 I/C	1	Sergeant
Investigator	1	Corporal
Patrolmen	8	Constable

On the other hand, should the Board choose to use mainly regular members and rely as little as possible on part-time members, the equation formula would indicate that 12 full-time members would be required to have 2 men on duty 24 hours a day, 7 days a week, throughout the year.

In contemplating the filling of senior positions in the Department, the Board should make full use of the Nova Scotia Police Commission's capability to provide promotional routines. This capability has been refined over the years and is now accepted by a number of departments as the only way they will deal with promotions. The City of Sydney is a case in point.

POLICE TRAINING AND EDUCATION

The police profession, like every other one, is subject to rapid change in today's world. Techniques, police practices and police equipment are subject to change at a pace that was not known 20 or 30 years ago. Periodic retraining is a necessity if police officers are to keep up with these changes. While the technological advances on the horizon may be awesome, they could have a favourable effect on policing costs.

In 1981, Canada received a new Constitution and a new Charter of Rights and Freedoms. A profound re-thinking of policing methods and procedures has been necessary. The Guide for Canadians issued with the Charter of Rights and Freedoms, referring to Section 11 of the Charter stated:

> "These legal rights also prohibit unreasonable search and seizure. In addition, even though the law authorizing the search or seizure may be reasonable in itself, the manner in which it is executed by the police might be challenged as unreasonable in the circumstances; for instance, the police will not be able to use unnecessary force."
>
> "There is also assurance that no person may be detained or held in an arbitrary manner. A police officer will have to show reasonable causes for detaining a person."

In 1984, the Young Offenders Act became law and the procedures for dealing with young offenders has changed.

These are two examples of legislation which have had a profound effect upon policing procedures. All police officers need to have training in the effect of these Acts upon their profession.

In Kentville, the sergeant and one of the constables received little basic recruit training. They did attend the Maritime Police School in Halifax, a two-week course, some time after they joined the Department. The sergeant has attended the Senior Police Administration Course at the Canadian Police College.

One of the other constables received the recruit training course of the Halifax Police Department and the remainder are graduates of the Atlantic Police Academy.

Over the years a number of chiefs of police in Nova Scotia have expressed concerns about the graduates of the Atlantic Police Academy. They feel that the graduates appear to have the impression that their first priority is law enforcement and not the prevention of crime. They seem to believe that they must enforce the law by the book and they pay too little attention to the policing priorities of the community. They seem reluctant to use their discretion in deciding whether to lay charges or deal with a matter in some other way. The Academy should place more stress on the responsibility a police officer has for giving factual and truthful evidence and the importance of personal integrity. Another field where the Academy appears to fall short of requirements is in education and instruction in human relations. Many of the incidents that came before the Inquiry showed that the police officers involved have an inadequate ability in interpersonal communications.

In 1978, the Attorney General placed before the Policy Board a proposed Municipal Police Training Plan for Nova Scotia. The Policy Board did not make a decision on that plan. The Nova Scotia Police Commission considers, however, that as a result of this Inquiry, there is additional evidence of the need for a standardized, minimum compulsory training and education continuum for police officers throughout their careers.

This plan would extend from recruit training, through periodic refresher training and include supervisory and management training for senior personnel. It would also include a senior management course either before or immediately after selection for appointment to the position of chief of police.

The recruit training program proposed would span 12 months. It would begin with 10 weeks in the police college, followed by 37 weeks of supervised on-the-job training in practical police work with progress recorded in a field training workbook and would culminate with a further 5 week period at the police college. On the basis of the year's work, the probationary constable would be assessed and, if considered qualified, would be issued with a diploma. A board of police commissioners and a town council would have all of the documentation of this assessment to assist them in making their decision on accepting the police officer for service in their police force. This should make a decision by the board and council easier than it was in the cases of the two probationary constables commented on in this report.

The Commission will shortly forward to the Attorney General, a proposal for a Municipal Police Training Plan for Nova Scotia. However, the Kentville Board, in collaboration with the Chief, should prepare a long range plan of refresher training for the members of the Department. This can be done partly by arranging seminars on important subjects, such as the Charter of Rights and Freedoms and the Young Offenders Act given by local persons knowledgeable on these subjects and, in addition, by sending a certain number of men each year to the Atlantic Police Academy to take the Advanced Police Science Course.

THE POLICE ACT

The late Chief Judge Green's Report of the Commission to Review the Police Act and Regulations proposed a new system for handling complaints against police. He proposed that a public complaint could be laid with the police department, the municipal clerk or the Nova Scotia Police Commission at the option of the complainant. Each of these authorities would have an obligation to explain the complaints procedure to the complainant and to assist the complainant to put together his letter of complaint if requested to do so. The complaint would have to be in writing, be specific and contain certain basic information, and would be forwarded to the chief of police.

The chief of police would have the responsibility of dealing with the complaint initially by attempting to resolve it informally. If this approach failed, the chief of police would be required to inform the complainant and any police officer involved, in writing, whether all or any portion of the complaint has been justified and what disciplinary action, if any, is to be taken.

Within 14 days after receipt of the information from the chief of police, the complainant or any police officer involved would be able to file, with the Registrar of the Police Review Board, a notice setting forth the grounds for review.

At this point, the investigation branch of the Nova Scotia Police Commission would be required to make a full investigation of the matter and again attempt to resolve the complaint.

Should this attempt fail, the Registrar of the Review Board would, within 14 days after the notice of review being filed with him, advise all parties concerned that the investigation branch has completed its investigation and advise them of the date, time and place of a hearing of the review by the Police Review Board.

The Police Review Board would be a body of three persons of which the chairman would be a Provincial Court Judge. The Board would have the power to award penalties if a wrong has been done and award costs if these are considered to be justified. The Board's decision would be final.

This procedure is simpler than that in the present Police Act and Regulations and would make it easier for the public to file legitimate complaints.

This Commission is strongly in favour of this procedure and recommends that the Attorney General include it in a revised police act.

The Commission also recommends that the definition of a complaint contained in the Complaints Against Police section of this report be included in the revised Police Act.

Also, Chief Judge Green recommended that the new legislation establish a standard membership for municipal boards of police commissioners. He recommended that each board should be composed of two members of council, two citizens-at-large appointed by council, and the Attorney General's representative. Some of the most successful boards in the province already have this composition. In the municipalities where these boards are functioning, the co-operation between the board and the police department works smoothly.

The Commission recommends that the Attorney General incorporate this provision in the revised police act.

SCOPE OF THIS INQUIRY

When the Commission undertook to conduct this Inquiry on July 4, 1983, at the request of the Kentville Board of Police Commissioners, it was not realized that the scope of this Inquiry would require 21 long days of public hearings spread over almost 7 months with a total of 184 appearances of witnesses.

The Inquiry heard evidence of some 30 incidents in which members of the public were dissatisfied with either the conduct or performance of duty of Kentville police officers. While many of the complaints proved to be unjustified or of doubtful justification, and many of them came from persons who had a history of conflict with the law, the Commission was made very much aware of the fact that almost all of the complainants were young people, either in their teens or in their twenties. To the Commission this is a most significant factor and demonstrates that the Town of Kentville needs to put a great deal of effort into ensuring that succeeding generations of young people have a better understanding of their responsibilities to society, of the role of the police and of the procedures that are available if they perceive that they have been unjustly dealt with by the police. On the other hand, the Kentville police must develop more sophisticated and professional ways of dealing with young people and of gaining their confidence and a much better understanding of everyone's rights under the new Charter of Rights and Freedoms.

It will not be possible to determine, for some time to come, the full cost of this Inquiry in dollars and cents. However, the Commission feels that it is necessary to express its concern over all associated costs in conducting the Kentville Inquiry. The administrative and legal costs were significant for all parties.

The Police Act and Regulations do not make any allowances or provisions for the discretionary awarding of costs or dealing with costs in any form. Without statutory enactment, the Nova Scotia Police Commission is powerless in this area. Legal costs for the police officers of Kentville are canvassed in the collective agreement with the Town of Kentville. Whether or not their legal fees are covered in proceedings in the nature of a public inquiry, is a matter between the union and the town and capable of resolution by the arbitration process. The quantum, as well as what services are covered, are best left to the union and the town.

The Commission is mindful, however, of the considerable legal expense incurred by Chief McRae in responding to the Inquiry. The Commission feels that this is a cost that no individual should have to bear personally.

This Inquiry proved to be a most difficult task that demanded a complicated report covering a wide range of incidents and subjects. The Commission believes that many of the incidents and the matters raised could have been resolved without recourse to an Inquiry, either through an enlightened complaints procedure, rigorous action by the Chief of Police and/or the Board of Police Commissioners, or the development of a better understanding of the modern day legal status of the police and the role of the Board as the police governing authority.

In order to make the recurrence of such an Inquiry unlikely, the Commission considers that the new or amended Police Act, which may be tabled before the next session of the Legislature, should incorporate recommendations made in the late Chief Judge Green's Report of the Commission to Review the Police Act and Regulations in the section dealing with the Nova Scotia Police Commission (page 15). Specifically, these amendments deal with requiring the Commission to conduct periodic assessments, evaluations and inspections of municipal police departments and with empowering the Commission, with the consent of the Attorney General, to conduct inquiries under sub-section 9(2) of the Police Act.

In the first instance, these assessments, evaluations and inspections would enable the Commission and its staff to pinpoint problems occurring in individual police departments and to work with the chief of police and the board to solve them. This procedure would be of tremendous benefit in precluding the necessity of an inquiry of the magnitude of this Inquiry.

In the second instance, the granting of power to the Commission to carry out inquiries of its own volition could also include a provision contained in the Police Act of Ontario. In that Act, where the Commission undertakes an inquiry or the Attorney General directs the Commission to undertake an inquiry, all of the costs, including the cost of recording and transcribing the evidence, are borne by the Consolidated Revenue Fund of the Province. On the other hand, if an investigation or inquiry is requested by the municipality, the municipality pays the costs, including the cost of recording and transcribing the evidence, unless the Attorney General directs otherwise.

These provisions should, first of all, go a long way to ensuring that emerging problems are nipped in the bud; and, secondly, provide an avenue whereby the Commission having been alerted by a municipality of the need for an investigation and having been seized of the need for it, can undertake it without burdensome cost to the municipality.

This Inquiry was requested by the Kentville Board under subsection 9(2) of the Police Act. This subsection of the Act appears to give the Commission some discretion as to whether to accept the request or not. However, the Commission has adopted the policy that it will conduct an inquiry whenever a board or council requests it.

In this instance, it was obvious to the Commission that the situation in Kentville had progressively deteriorated to the point where it was virtually out of hand and something drastic had to be done. Opinions expressed to the Commission and in the media, gave the firm impression that the citizens of the town considered that the whole situation should be aired in public and "let the chips fall where they may". It is not entirely clear to the Commission whether the Inquiry has had a cathartic effect on the community but opinions expressed seemed to think that it has.

CONCLUSIONS AND RECOMMENDATIONS

Twenty-three incidents were considered to be worthy of analysis in this report. In each case, findings were made and recorded at the end of the section on each incident. The findings will not be repeated in the conclusions and recommendations; however, many of them have been taken into consideration in arriving at recommendations.

Some recommendations have been made on other subjects and the Table of Contents shows the page of the report where they may be found.

This section will deal mainly with police governance and personnel matters.

Office of the Mayor and Town Council

The philosphy of municipal police governance has been presented elsewhere in this report. The Police Act brought into force a standard format of police governing authority for municipalities having their own police forces in Nova Scotia, namely the Municipal Board of Police Commissioners. The Board should govern the municipal police force and, in so doing, set the policy for the police department and work with the chief of police to oversee the control and management of the force. The Board should carry out its duties and responsibilities without interference from the Council. The Council, in the case of Kentville, however, does have the responsibility for approving the budget of the department; appointing the chief of police; and appointing, promoting and dismissing the other members of the force.

The system brought into effect by the Police Act is similar to that which is in effect in most other provinces. The mayor is, in most cases across the country, a member of the board. Mayor Phinney is, by his own admission, interested in policing policy and in assisting the resolution of public complaints against the police

The Commission recommends that:

(a) The Town Council deal with police matters only through the Board of Police Commissioners.

(b) The mayor be a member of the Board.

The Board of Police Commissioners

The philosophy of the Board as the police governing authority is discussed in the introduction to this report, in the section on The Town of Kentville and its Police Department, and is mentioned directly or indirectly in other sections. The Commission considers that adoption of this philosphy is a necessary step in overcoming the problems which plague Kentville and its Police Force at present. The Board should also make itself more aware of the duties of police officers by arranging to accompany them on patrol.

The Chief of Police, under this philosphy, is accountable to the Board for the efficient running of the Department and its operations and to no other body or individual. Any organizational charts produced should clearly show this relationship.

The secretary to the Board should be a valuable link between the Board and the Chief for assistance and advice. The Director of Finance should also be a valuable resource person to provide advice and assistance on budgetary and personnel policy matters.

The Commission recommends that:

(a) The Board adopt the philosphy of its duties and responsibilities as set forth in this report.

(b) The organizational chart of the Town of Kentville show the Board as functioning independently and without interference from the Council.

(c) The organizational chart for the Town of Kentville show the Chief as being directly accountable to the Board.

(d) The Board assume the responsibility for preparing the personnel evaluation report of the Chief of Police.

(e) The Board and the Chief prepare the budget for the Kentville Police Department, using the Director of Finance as a resource person.

The Chief of Police

The actions of Chief Alan K. McRae, which were covered by evidence at this Inquiry, have been well documented elsewhere in this report. The Commission has critically reviewed the actions and decisions of the Chief of Police in his handling of the Probationary Cst. Kennedy and Probationary Cst. Turner matters; in the drug investigation incident and the supplement to it; in his allegations of indecent assault and obscene telephone calls by members of the Council; for his ignorance of the strip searches being carried out by his men at the County Lock-up; for his casual attitude toward the use of mace; for not insisting that his officers abide by the rules on CPIC and crime index; on his relationship with the Board and Council, the town administration and his men; and on the way he treated Sgt. Young.

The performance of Chief Alan K. McRae as Chief of Police in Kentville is summarized in the section of the report dealing with the Town of Kentville and Its Police Department (page 130).

Through the medium of the brief submitted by the Counsel for Chief McRae it was stated, "It is the sincere wish of the Chief of Police that there be better communication and less animosity between the Board of Police Commissioners and the Police Department. The Chief of Police can assure the Police Commission that he will endeavour to facilitate these changes and other changes in order to have better harmony between the Board of Police Commissioners and the Police Department."

The brief, also, stated: "Policing in the Town of Kentville during the course of the last seven months has improved for there is now better communication between the men and the Chief of Police and amongst the men themselves. There is a nucleus of policemen in the Town of Kentville to make up one of the better municipal police forces in the Province of Nova Scotia. It is our sincere hope that in coming down with your recommendations that the Police Commission does nothing to destroy this nucleus but develop policy and recommendation that will improve what already exists in the Town of Kentville."

In spite of Chief McRae's intentions to try to improve his performance, this Commission is of the opinion that the Kentville Police Department, with such a difficult and complex personality as its chief executive, cannot properly operate in its relationship with the Board of Police Commissioners, the other members and the citizens of the town. The Commission noted, for example, a number of occasions when Chief McRae deliberately misled the Board and his men or manufactured the truth to his own ends. The Commission is also aware of the great schism which has been created between the Chief, the Board and the Council and it is our opinion that this would be difficult, if not impossible, to bridge.

The Nova Scotia Police Commission is aware that the ultimate responsibility for the proper policing of the Town of Kentville lies with the Board of Police Commissioners and desires that the Board be unfettered in its attempt to reform the conditions which now exist.

The Commission therefore reports, pursuant to Section 65(b) of the Regulations made under the Police Act, that Alan K. McRae does not perform

or is incapable of performing his duties in a manner fitted to, or his conduct is such as not to, satisfy the requirements of his position as Chief of Police of the Kentville Police Department and recommends that the Board of Police Commissioners recommend to the Town Council that it dismiss the said Alan K. McRae or place him on retirement, if he is entitled thereto.

Sgt. Fred Young

Sgt. Young has been the subject of a deliberate campaign by the Chief of Police to undermine his authority as the N.C.O. and second-in-command of the Kentville Police Force and to demean him in the eyes of the Board and the men.

While this campaign has placed Sgt. Young in a difficult position and resulted in a loss of respect of the men, and to some extent the Board, Sgt. Young also bears some responsibility for the predicament in which he finds himself. Reference should be made to the section of this report dealing with the Town of Kentville and Its Police Department (page 140).

His appearance and his ability as a leader and supervisor leave a lot to be desired. He admits that he is lazy. He appears to take much too casual an attitude toward his duties as a supervisor and leader. The Commission is of the view that, unless he can make major changes in his approach to his duties as a supervisor and leader, he is not fit to be the second-in-command of the Kentville Police Force. The Commission would like to see him given an opportunity to correct his faults and, if he chooses to do so, re-offer himself for the position of sergeant in due course, when a promotional routine for the position is conducted.

The Commission therefore reports, pursuant to Section 65(a) of the Regulations made under the Police Act, that Frederick Young does not, at present, perform his duties in a manner fitted to, or his conduct is such

as not to, satisfy the requirements of his position as second-in-command and sergeant of the Kentville Police Force, and recommends that the Board of Police Commissioners recommend to the Town Council that it reduce the said Frederick Young in rank to corporal.

Cst. David J. Murphy

The conduct and performance of duty of Cst. David Murphy as a member of the Kentville Police Force and as presented to the Inquiry in evidence was analyzed in the section of the report entitled The Town of Kentville and Its Police Department (see page 146). The Commission has nothing further to add to that analysis.

The Commission therefore reports, pursuant to Section 65(b) of the Regulations made under the Police Act, that David J. Murphy does not perform his duties in a manner fitted to, or his conduct is such as not to, satisfy the requirements of his position as constable of the Kentville Police Force, and recommends that the Board recommend to the Town Council that it dismiss the said David J. Murphy or place him on retirement, if he is entitled thereto.

Cst. Bryan K. Morrison

Cst. Morrison's performance as a witness, his shortcomings that came to light through evidence before the Inquiry and his sorry attitude toward the Board, the Council and the town administration were documented in the section entitled The Town of Kentville and Its Police Department (see page 148). The Commission is deeply concerned about the bad influence this constable is having on, in particular, the relations between the Kentville Police Association and the Board. He must, at the very least, undergo an abrupt change in the rancour revealed in his testimony toward the Board and the Council. The Commission debated whether to recommend his dismissal. However, on balance, it was decided that he has some good qualities as a police officer and should be given an opportunity to improve himself in the other areas which are criticized in this report.

The Commission, therefore, reports, pursuant to Section 65(a) of the Regulations made under the Police Act, that Bryan K. Morrison does not perform his duties in a manner fitted to, or his conduct is such as not to, satisfy the requirements of his position as constable (first class) of the Kentville Police Force, and recommends that the Board of Police Commissioners recommend to the Town Council that it reduce the said Bryan K. Morrison in rank to constable (second class).

With very few exceptions, the Commission was disappointed in the quality of the evidence given by the police officers before the Inquiry, even taking into consideration the long time period that had elapsed since particular incidents had taken place. It is to be expected that the evidence given by a police officer should always be frank, forthright and factual. The consciences of the police officers concerned will tell them if they were shading the truth. Personal integrity is important to a police officer. When the officers gives evidence as often as police officers are required to do, the integrity of each individual officer soon becomes known. Officers whose personal integrity is beyond reproach stand out head and shoulders above the rest.

The Commission is very cognizant of the fact that there is a great deal to be done in Kentville to overcome the situation which was revealed in testimony before this Inquiry. The Commission hopes that this report and its recommendations, if adopted, will go a long way towards improving conditions in Kentville, especially the sorry situation that exists between the elected and appointed officials of the town and the police department.

The Commission considers that forceful measures need to be taken to make improvements. It is the Board of Police Commissioners that must make the decisions and plot the course. However, the team that makes up the Kentville Police Department -- the Board, the Chief of Police and the members of the Force -- must work together to ensure that ultimately the policing services in Kentville are provided by a loyal, dedicated group of police officers with the knowledge that they have the full support of their Chief of Police, the Board of Police Commissioners, Town Council and the public they serve. The Nova Scotia Police Commission wishes the Board and the other members of the team well and is always available to assist if called upon to do so.

DATED at the City of Dartmouth

in the Province of Nova Scotia

this 18th day of July 1984.

Harry A. Porter, Chairman

Neil G. Price, Member

Murray J. Ritch, Member

OPENING STATEMENT

INQUIRY INTO THE KENTVILLE POLICE DEPARTMENT

Good morning Ladies and Gentlemen. The hearing of the Inquiry into the Kentville Police Department as requested by the Board of Police Commissioners of the Town of Kentville is now in session.

This inquiry, which is not a court, will be conducted in an atmosphere that is less formal than a courtroom. At the same time, the decorum of the persons here present is expected to be that normally observed during courtroom proceedings.

Let me introduce you to the Members of the Nova Scotia Police Commission. My name is Harry Porter and I am the Chairman. On my left is Mr. Neil Price and on my right is Mr. Murray Ritch. The three of us are the Members of the Nova Scotia Police Commission.

On May 12, 1983, D. P. Hardy, the Town Administrator, Town of Kentville wrote to me as the Chairman of the Nova Scotia Police Commission as follows:

"DEAR MR. PORTER:

THE BOARD OF POLICE COMMISSIONERS FOR THE TOWN OF KENTVILLE MET IN REGULAR SESSION ON MAY 9, 1983, AT WHICH TIME CONSIDERABLE DISCUSSION ENSUED PERTAINING TO ONE MEMBER OF THE KENTVILLE POLICE DEPARTMENT, NAMELY, SGT. FRED YOUNG.

THE BOARD HAS BEEN CONCERNED FOR SOMETIME RESPECTING THE ACTIONS, OR INACTION, OF SGT. YOUNG, AND, IN KEEPING WITH THE PROVISIONS OF THE POLICE ACT, CHAPTER 9, SECTION 9(2), THE BOARD CONCLUDES THAT IT WISHES TO TENDER A REQUEST TO THE NOVA SCOTIA POLICE COMMISSION FOR AN INVESTIGATION. SPECIFICALLY, THE BOARD, BY UNANIMOUS VOTE, REQUESTS THAT THE NSPC COME TO KENTVILLE AND CARRY OUT AN INVESTIGATION CONCERNING THE WORK AND CONDUCT OF SGT. FRED YOUNG.

LOOKING FORWARD TO YOUR RESPONSE, I REMAIN,

SIGNED D. P. HARDY, CMA
TOWN ADMINISTRATOR."

On May 13, 1983, I replied as follows:

"DEAR MR. HARDY,

IN RESPONSE TO YOUR LETTER OF MAY 12, 1983, THE NOVA SCOTIA POLICE COMMISSION WILL MEET TO INQUIRE INTO THE WORK AND CONDUCT OF SGT. FRED YOUNG OF THE KENTVILLE POLICE DEPARTMENT AS REQUESTED BY THE BOARD OF POLICE COMMISSIONERS OF THE TOWN OF KENTVILLE.

THE COMMISSION WILL MEET TO CONDUCT THIS INQUIRY ON A DATE AND IN A PLACE IN KENTVILLE STILL TO BE DETERMINED.

THE PROCEEDINGS OF THE INQUIRY WILL BE GOVERNED BY THE GENERAL TERMS SET FORTH IN SUBSECTIONS 5(3) AND (4), SUBSECTIONS 6(1) AND (2), AND SUBSECTION 9(4) OF THE POLICE ACT.

THE COMMISSION HAS APPOINTED MR. GEORGE SMITH, A STAFF MEMBER OF THE COMMISSION, TO CONDUCT A PRELIMINARY INVESTIGATION AND TO PREPARE A LIST OF WITNESSES TO BE CALLED BEFORE THE COMMISSION. HE WILL BEGIN THIS INVESTIGATION ON MONDAY, MAY 16, 1983."

On May 19, 1983, Mr. Hardy again wrote to me as Chairman of the Commission, as follows:

"DEAR MR. PORTER,

I WISH TO MAKE FURTHER REFERENCE TO MY LETTER OF MAY 12, 1983, AND YOUR RESPONSE OF MAY 13.

ADVISOR GEORGE SMITH VISITED MY OFFICE ON MAY 18, 1983, AT WHICH TIME PRELIMINARY DISCUSSIONS WERE HELD WITH CHAIRMAN JOE MARSHALL, VICE CHAIRMAN HAROLD PEARL AND MYSELF. FOLLOWING THOSE DISCUSSIONS, IT WAS AGREED BY THE CHAIRMAN AND VICE CHAIRMAN THAT A SPECIAL MEETING OF THE COMMISSION BE CONVENED RIGHT AWAY TO FURTHER CONSIDER THE REQUEST WHICH HAD EARLIER BEEN MADE.

AS A RESULT OF THE SPECIAL MEETING WHICH WAS CONVENED ON THE EVENING OF MAY 18, 1983, I WOULD NOW ADVISE THAT THE COMMISSION RESCINDED THEIR MOTION OF MAY 9, 1983, WHICH REQUESTED AN INVESTIGATION BY THE NSPC INTO THE WORK AND CONDUCT OF SGT. YOUNG.

PLEASE BE ADVISED, HOWEVER, THAT THE BOARD HAS NOW REQUESTED THAT THE NOVA SCOTIA POLICE COMMISSION COME TO KENTVILLE AND REVIEW ALL MATTERS PERTAINING TO THE MANAGEMENT OF THE KENTVILLE POLICE DEPARTMENT INCLUDING PERSONNEL REQUIREMENTS.

THE ASSISTANCE OF THE COMMISSION WITH RESPECT TO THE FOREGOING WILL INDEED BE GREATLY APPRECIATED.

SIGNED D. P. HARDY,
SECRETARY-TREASURER
BOARD OF POLICE COMMISSIONERS"

On may 24, 1983, I replied as follows:

"DEAR MR. HARDY,

I WISH TO ACKNOWLEDGE RECEIPT OF YOUR LETTER DATED MAY 19, 1983, AND THE REQUEST THAT IT CONTAINED THAT THE INQUIRY INTO THE KENTVILLE POLICE DEPARTMENT BE BROADENED.

THE NOVA SCOTIA POLICE COMMISSION ACCEPTS THE REQUEST FOR AN INQUIRY TO, 'REVIEW ALL MATTERS PERTAINING TO THE MANAGEMENT OF THE KENTVILLE POLICE DEPARTMENT INCLUDING PERSONNEL REQUIREMENTS'.

THE COMMISSION CONSTRUES THIS TO MEAN THAT THE INQUIRY WILL NOW INCLUDE ANY OR ALL OF THE SUBJECTS LISTED IN SUBSECTION 9(2) OF THE POLICE ACT. IT IS REQUESTED THAT YOUR BOARD CONFIRM THIS INTERPRETATION.

IN VIEW OF THE EXPANDED SCOPE OF THE INQUIRY, THE COMMISSION HAS APPOINTED MR. J. E. MCNEILL TO ASSIST MR. GEORGE SMITH IN THE PRELIMINARY INVESTIGATION."

On June 8, 1983, Mr. Hardy again wrote to me as follows:

"DEAR MR. PORTER,

I WISH TO ACKNOWLEDGE YOUR LETTER OF MAY 24, 1983, RESPECTING YOUR FILE NO. 255.70.

PLEASE BE ADVISED THAT YOUR LETTER WAS PRESENTED TO THE BOARD OF POLICE COMMISSIONERS FOR THE TOWN OF KENTVILLE WHICH MET IN REGULAR SESSION JUNE 6, 1983.

OUR LETTER OF MAY 19, 1983, REQUESTED THAT THE NSPC REVIEW ALL MATTERS PERTAINING TO THE MANAGEMENT OF THE KENTVILLE POLICE DEPARTMENT INCLUDING PERSONNEL REQUIREMENTS. BY WAY OF YOUR MAY 24, 1983, CORRESPONDENCE, YOU STATED THAT YOUR COMMISSION CONSTRUES THIS TO MEAN THAT THE ENQUIRY WILL NOW INCLUDE ANY OR ALL SUBJECTS LISTED IN SUBSECTION 9(2) OF THE POLICE ACT. AT THIS TIME, I WISH TO ADVISE THAT THE BOARD OF POLICE COMMISSIONERS FOR THE TOWN OF KENTVILLE CONFIRMS THIS INTERPRETATION.

SIGNED D. P. HARDY, CMA
SECRETARY-TREASURER
BOARD OF POLICE COMMISSIONERS"

The Nova Scotia Police Commission met on July 4, 1983, and immediately on conclusion of that meeting I wrote the following letter to all persons who might be affected by the inquiry:

"THE BOARD OF POLICE COMMISSIONERS OF THE TOWN OF KENTVILLE HAS REQUESTED THAT THE NOVA SCOTIA POLICE COMMISSION CONDUCT A PUBLIC INQUIRY INTO THE KENTVILLE POLICE DEPARTMENT IN ACCORDANCE WITH SUBSECTIONS 9(2) (A) AND (B) OF THE POLICE ACT, CHAPTER 9, SNS 1974.

THESE SUBSECTIONS STATE:

'9 (2) THE COMMISSION OR ANY MEMBER THEREOF DESIGNATED BY THE CHAIRMAN MAY INVESTIGATE, INQUIRE INTO AND REPORT UPON

(A) THE CONDUCT OF OR THE PERFORMANCE OF DUTIES BY ANY CHIEF OF POLICE, OTHER POLICE OFFICER, CONSTABLE, SPECIAL CONSTABLE OR MUNICIPAL BY-LAW ENFORCEMENT OFFICER;

(B) THE ADMINISTRATION OF ANY POLICE FORCE;'

SUBSECTIONS 9(3) AND (4) WHICH ARE ALSO RELEVANT STATE AS FOLLOWS"

'9 (3) THE ATTORNEY GENERAL MAY, UPON THE REQUEST OF THE COMMISSION, APPOINT COUNSEL TO ASSIST THE COMMISSION IN AN INQUIRY OR INVESTIGATION UNDER THIS SECTION.

(4) EVERY PERSON LIKELY TO BE AFFECTED BY AN INVESTIGATION OR INQUIRY UNDER THIS SECTION SHALL BE AFFORDED A REASONABLE OPPORTUNITY TO APPEAR AND BE HEARD EITHER IN PERSON OR THROUGH COUNSEL.'

THE FIRST HEARING OF THE PUBLIC INQUIRY WILL TAKE PLACE ON MONDAY, JULY 25, 1983, IN THE COURT ROOM OF THE SUPREME COURT IN KENTVILLE COMMENCING AT 9:00 A.M.

IT IS ANTICIPATED THAT THE HEARINGS WILL CONTINUE IN THAT COURT ROOM EVERY DAY THAT WEEK INCLUDING FRIDAY, JULY 29, 1983."

On July 5, 1983, I again wrote to the same addressees as follows:

"FURTHER TO MY LETTER OF JULY 4, 1983, SO THAT ALL CONCERNED ARE AWARE OF THE GENERAL PROCEDURE AND THE SCOPE, THE NOVA SCOTIA POLICE COMMISSION WISHES TO SET FORTH THE MANNER IN WHICH A PUBLIC INQUIRY IS CONDUCTED UNDER THE POLICE ACT AND REGULATIONS.

THE INQUIRY HEARINGS WHICH WILL BE OPEN TO THE PUBLIC WILL BE HELD IN A COURTROOM ATMOSPHERE WITH PROCEDURES LESS FORMAL THAN A COURT.

IT IS THE RESPONSIBILITY OF G.A. SMITH AND J. E. MCNEILL, MEMBERS OF THE STAFF OF THE COMMISSION, TO INTERVIEW ALL PERSONS WHO MAY HAVE EVIDENCE TO PRESENT TO THE INQUIRY AND TO OBTAIN STATEMENTS FROM THEM. THE COUNSEL FOR THE COMMISSION, MR. BRIAN NORTON, WILL WORK WITH THE STAFF MEMBERS TO DEVELOP THE HEARING. COUNSEL WILL REVIEW THE INFORMATION ASSEMBLED BY THE STAFF MEMBERS FOR RELEVANCY AND THEN PLAN THE HEARING.

EVIDENCE TO BE PRESENTED AT THE HEARING MUST BE RELEVANT TO THE PURPOSE OF THE INQUIRY, I.E. SUBSECTIONS 9(2) (A) AND (B) OF THE POLICE ACT AS THEY RELATE TO THE KENTVILLE POLICE DEPARTMENT AND THE OFFICERS WHO CURRENTLY SERVE THAT DEPARTMENT."

"AT THE HEARING THE CHAIRMAN OF THE COMMISSION WILL MAKE AN OPENING STATEMENT SETTING FORTH IN DETAIL THE REASON FOR THE INQUIRY, THE RIGHTS OF WITNESSES AND THE GENERAL PROCEDURE TO BE FOLLOWED. THIS PROCEDURE WILL BE DECIDED ON THE ADVICE OF THE COUNSEL TO THE COMMISSION WHO WILL MAKE HIS RECOMMENDATIONS AFTER CONSULTATION WITH THE COUNSEL OF THE PARTIES CONCERNED IN THE INQUIRY.

WITNESSES WILL BE SUBPOENAED TO APPEAR AS PROVIDED FOR IN THE PUBLIC INQUIRIES ACT.

WHILE THE HEARING WILL BE OPEN TO THE PUBLIC, IF IT IS NECESSARY, THE COMMISSION WILL ENTERTAIN REPRESENTATION FROM THE PARTIES CONCERNED OR THEIR COUNSELS THAT EVIDENCE SHOULD BE HEARD IN PRIVATE. IN THIS REGARD, YOUR ATTENTION IS INVITED TO SECTION 6(2) OF THE POLICE ACT.

ON CONCLUSION OF THE HEARINGS OF EVIDENCE AND ARGUMENT, THE INQUIRY HEARING WILL BE ADJOURNED. THE COMMISSION WILL FORMULATE A WRITTEN REPORT AND RECOMMENDATIONS WHICH WILL BE MADE TO THE ATTORNEY GENERAL AND THE CHAIRMAN OF THE BOARD OF POLICE COMMISSIONERS, TOWN OF KENTVILLE."

That concludes the correspondence exchanged on this inquiry.

Now, it might be well at this time to quote certain relevant sections of the Police Act with a view to making it clear to the public the role of the Commission in this matter, and I wish to quote excerpts from Section 9 of the Police Act as follows:

"Section 9 (2) The Commission or any member thereof designated by the Chairman may investigate, inquire into and report upon

(a) the conduct of or the performance of duties by any chief of police, other police officer, constable, special constable or municipal by-law enforcement officer;

(b) the administration of any police force;

whenever requested by a majority of a Board respecting such matters as are under the jurisdiction of the municipality."

This is the authority under which the inquiry is being held.

Now, just to continue with Section 9 of the Police Act. Subsection 3 states: "The Attorney General may, upon the request of the Commission, appoint counsel to assist the Commission in any inquiry or investigation under this section." Mr. Brian Norton has been appointed as our Counsel.

Subsection 4 states, and this is an important one: "Every person likely to be affected by an investigation or an inquiry under this section shall be afforded a reasonable opportunity to appear and be heard either in person or through Counsel."

Subsection 5 states: "The Commission shall make a report of its investigation under Subsection 2 to the Attorney General on his request and to the council and, where there is a board, the board of the municipality for which the police force is maintained."

The Police Act in Subsection 5(4) provides that: "For the purpose of any hearing pursuant to this Act, the Commission and each member of the Commission shall have and may exercise all the powers, privileges and immunities of a commissioner appointed under the Public Inquiries Act."

The Public Inquiries Act provides for the compelling of the attendance of witnesses and for requiring them to give evidence on oath.

Now, in this regard, Section 56 of the Evidence Act of Nova Scotia provides that, and I quote: "A witness shall not be excused from answering any question or producing any document upon the ground that the answer or the document may tend to criminate him or any other person, or may tend to establish his liability to a civil proceeding at the instance of the Crown or any person or to a prosecution under any Act of the Legislature. If, with respect to any questions, a witness objects to answer upon any of the grounds set forth in subsection 1, (which I have just read) and if but for this Section or any Act of Canada, he would have been excused from answering the question, then, although the witness is by reason of this Section or by reason of any Act of Canada compelled to answer, the answer so given shall not be used or receivable in evidence against him in any Civil proceedings or in any proceedings under any Act of the Legislature."

I think it is quite clear that the statements taken here, if the witnesses choose to take advantage of this Act, cannot be used in a Civil or other proceedings under Provincial enactment.

Now, this is the Federal Statute and the Canada Evidence Act reads as follows: "Where with respect to any question a witness objects to answer upon the grounds that his answer may tend to criminate him, or may tend to establish his liability to a civil proceeding at the instance of the Crown or of any other person, and if but for this Act, or the Act of any provincial legislature the witness would therefore have been excused from answering such question, then although the witness is by reason of this Act, or by reason of such provincial Act, compelled to answer, the answer so given shall not be used or receivable in evidence against him in any criminal trial, or other criminal proceedings against him thereafter taking place, other than a prosecution for perjury in the giving of such evidence."

You will note that these two sections that I have quoted are very similar. The purpose is, of course, to extend the powers, the exemption, insofar as the Province can extend it, and secondly to extend these rights insofar as the Federal authorities can extend them. Each of the witnesses to appear before this inquiry will be advised of this right.

The Police Act and the Public Inquiries Act do not set out in detail the procedures that should be followed by a Commission at a hearing but I would, again, like to draw your attention to subsection 9(4) of the Police Act which states: "Every person likely to be affected by an investigation or inquiry under this Section shall be afforded a reasonable opportunity to appear and be heard either in person or through counsel."

Although we are not bound by them, the Commission plans to follow the rules of evidence as closely as possible.

The Attorney General has appointed Mr. Brian Norton to be Counsel to the Commission for this inquiry. Mr. Norton and advisors on the staff of the Commission, Mr. George Smith and Mr. Ed McNeill, have developed the hearing. Discussions have been held with other Counsels here present to work out the details of this inquiry. For the benefit of the public attending this hearing, I would ask the Counsels to stand, identify yourself, and to state whom you are representing in this inquiry.

For the benefit of the public here present, the procedure that will be followed for this inquiry is that the Counsel for the Commission, Mr. Brian Norton, will lead each of the witnesses that are called in turn. Each witness will be sworn and Mr. Norton will then proceed to question the witness. When he has concluded, other Counsels will be asked whether they wish to examine direct or cross examine, and although it will be the decision of the Commission which of those they can do, under normal circumstances we will concede to the wishes of the Counsel. The Commission members themselves have the opportunity, if they choose to do so, either to ask questions through our Counsel or direct them to the witnesses.

Before we proceed any further, this is the procedure which the Commission wishes to follow.

Each of the Counsel will be provided with the opportunity to make an opening statement which we ask you to keep to fifteen minutes or less.

We will then proceed to hear the witnesses.

If time allows this week we will also have a summing up of the evidence presented. We will then adjourn. While we are adjourned, the Commission would welcome written briefs from Counsel. While we are adjourned, if the transcripts are available, they will be sent to all concerned. We will then reconvene the inquiry and will hear arguments on conclusions and recommendations which should be drawn. However, if at that point, we do not have the transcripts or have not had them for sufficient time, we will also dwell a pause afterwards, probably for two weeks, to give Counsels further opportunity to make comments and recommendations and to submit written briefs before this Commission drafts its report to the Attorney General, the Board of Police Commissioners and the Town Council. The point that I would like to make here is that through this procedure Counsels will be given an adequate opportunity to produce briefs or to produce arguments to the point of what sort of recommendations, what sort of a report this Commission should make to the Board of Police Commissioners who have requested this inquiry.

The Commission has decided that no witnesses will be excluded from the hearings before us. This is a public inquiry and open to all who wish to attend, including the media. It is quite likely that the proceedings will be reported in the press, on the radio and on television. The Commission, therefore, considers that all witnesses, should they choose to do so, should have the opportunity to be present at these proceedings.

That concludes my opening remarks. Thank you ladies and gentlemen.